

Introduction.

Because this Work may meet with Various Censures in its Public Appearance in the World, it is thought fit to Preface it with a few words Declarative of its Design and Original.

As to its Design, the Reader is assured Negatively; nothing Invidious, nothing Calumniating or Slandorous is design'd at all; and therefore being oblig'd to follow the Tract of a late Book, Entitled, *Remarks, &c.* the Author has carefully left out all the Raillery, Satyr, and Sarcasms which seems to run with some ill Nature thro' every Part of that Book.

If relating Matters of Fact be a Satyr, that cannot be help'd, the Gentlemen concern'd must Enquire if it be True, and there only will lie the Quarrel at the Author, who has taken all possible Care not to be charg'd on that Score.

The true Original of this Book is thus. The Author having been an Eye-witness of great Oppressions and Hardships, which are frequently put upon the Subjects of *England* in Collecting Her Majesty's Revenue, and which he is fully satisfied, neither Her Majesty, nor the Ministry either Approve of, or are Acquainted with; he thought it became him as a Lover of Justice and a Friend to Liberty, to Enquire into the Particulars, in order to represent them to our Governours, that they might meet with suitable Redress.

Nor is there any need of hard Words, the bare Relation really cuts Deep enough here, and there needs no Gall or Bitterness to make it wound the deeper: If the Persons concern'd at the same Time that they Own the Fact, express no Regret at their Part in it.—— He Pities their Tempers, for Sense of Guilt always makes Impression where there is but a mean Stock of Vertue.

Nor is his meaning any thing Invidious, personal Prejudice he can have none, he seeks no man's Employment, nor has any Acquaintance with their Persons.

He could not but think it hard, that Laws more severe than upon any other Men in this Nation, should lie as a Dead Weight upon one Part and not on another; as if, the Brewers and Distillers were Attainted and Condemn'd to lose their Liberty. He began there-

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therefore to ask what the Brewers and Distillers had done, that they should be Generally treated in a Different Manner from all the rest of the Nation.

It is the Undoubted Privilege of English-men, and which they enjoy from their Ancestors by a long Prescription of Ages, That *they Ought not to be disseised of their Property but by Legal Process*; and that Legal Process is Explain'd in *Magna Charta*, and Express'd in these Words, — *by the Judgment of his Peers*.

Of all the Laws in *England*, none Attempts to Deprive the Subject of this Liberty, *but the Laws of Excise*.

He believes it would be very hard, and next to impossible to Answer this one Question in the next Parliament, or indeed any where else, *viz.* Why the *Brewers and Distillers* should have a more precarious Title to their Estates than other Men? — Why they should be reckon'd Aliens, and not be brought within the Line of the Communication of our *English Privileges*, as well as other Men —

If they have committed any Crime that can forfeit for them or their Posterity the Birth-right of English-men, *they desire it may be produc'd*; and they are very willing to come to the Judgment of the Law, and ask no Favour.

It is answer'd *this is a Law*, and therefore while it is in Force, it justifies the Commissioners in the utmost Severities. — 'Tis their Duty, which they cannot avoid, it deserv'd Censure if they did not pursue it.

'Tis true, thus is a Law, and this is the very Objection we make, the present Design is, if possible, so to open the Eyes of our *Law-Makers* that they may see what this Law is, and to whom the Care of it is committed, and in Time find Cause to repeal it.

To represent to them that this Law is grown upon them insensibly, that when the Penalties were small, and the Breaches Trifles, it was of no extraordinary Consequence to make the Excise-men Judges and Juries themselves; there was then nothing Fatal in it, the Matter seem'd to require it also, being too Trifling, and mean to give a Bench of Justice the Cognizance of every Dispute, and Call Juries for the Article of 40 s. Penalty.

Not that it less the Tradesman's Right to be Try'd by his Fellows or Peers — but tho' it was a Hardship in its Nature, yet it was not of Magnitude sufficient to Disturb them, and they were always too Easy under the Government of the Nation to be clamouring at small things.

But the Case differs here, and as several Duties of Excise have encreas'd to a Magnitude never heard of before, so the Penalties and Severities

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Severities were necessarily much greater, as it became more reasonable to imagine the Traders would run some Risques for Concealment where the Advantage appear'd so great.

And yet neither the high Duties, nor the severe Penalties are the Subject of this Complaint—tho' both are such as *England* never heard of before: But as the highest Duty must in the End be paid by the Consumption they acquiesc'd, and as to Penalties, the fair Tradesman is unconcern'd in them, Provided he is not ensnar'd and Drawn into them by Artifice and illegal Extensions of Power, of which some Instances will appear in the pursuit of this Work.

But the present Grievances, and of which the Brewers and Distillers now Complain, is that at the same time the Duties and Penalties are increas'd, the Method of determining these Penalties is unhappily continued by a Clause in every Act, Directing the Proceedings to be by the same Rules, and to be Heard by the same Persons as before.

And this they say is illegal in its Nature, however it has the Force of a Law now to support it, since it makes them liable to the Arbitrary Determination of the Commissioners, and contrary to the Privileges of a Free-born Subject, expressly establish'd, as before recited in *Magna Charta*, makes them liable to be Tried and Disseised of their Property without the Judgment of their Peers.

This is the Foundation Complaint, and the Brewers and Distillers about *London*, think themselves peculiarly Unhappy in this, that the Distaster of this Grievance is singular to them; all the rest of the Brewers and Distillers in the Nation. Enjoying at the same time their Native Rights; are tried by the proper Majestates the Instruments of Executive Justice may appeal to the Quarter-Sessions, and from thence by *Certiorari* to the Queen's-Bench Bar, and so Enjoy the full Benefit of National Justice in Common with the rest of the Queen's Subjects.

But in *London* only, and the Parts adjacent, the Brewers and Distillers, as if they had been declar'd Out-Laws, are sacrific'd to the Severity of a particular Clause, grown old and obsolete in its Occasion, but unwarily consented to, if I may lawfully Suggest that of an *English* Parliament, no body offering in Behalf of the Tradesmen to Re-mind the House how they were giving up 500 Families to the Mercy of Officers, a sort of Men not extraordinary famous for Justice, much less for Compassion to the Families of those that fall into their Hands.

The Examining into the Unreasonableness of this Difference, and its ill Consequences, is therefore the present Work, in order to Move our Law Makers to Redress so fatal a Grievance, and restore the industrious Traders to their Native Rights.

That

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That an Inquiry into the Particulars, in order to illustrate the Story with such Examples as may convince every reasonable Man of the Justice of this Complaint becomes absolutely Necessary, is *an Accident to the Design*, and as it is a meer Consequence to the other, they hope they shall be excused, the Story will be pursued with as much Calmness and Tenderness to the Persons as will consist with doing Justice to the Complaint.

But either the Brewers and Distillers have been oppress'd, or they have not; either the Commissioners have exercis'd the Exorbitant Power we are speaking of, with Undue and Unbecoming Severities or they have not; either the Traders have been injur'd and subjected to false Judgments and unjust Sentences, or they have not; either on Appeals they have fallen under partial Determinations and Confirmations of those Sentences, or they have not.

If they have not; then indeed this Complaint is unjust, and exposing the Particulars, must savour of Envy, Malice, and ill Design, and ought to be censur'd — But *if they have*, it is then absolutely Necessary to expose it to the World, that the Power of Reason and the Invincible Evidence of Truth may move the Nation to a Sense of their Sufferings, and in Time procure that Regulation the Justice and Nature of the Thing calls for.

And how shall this be done, but by descending to Particulars? How shall it appear they are ill treated, depriv'd of their Birth-right, and expos'd to the Insults of the Officers? How shall the Unjust Proceedings on an assum'd Power be Explain'd, but by Exhibiting to the World the Particulars, and laying open Matters of Fact.

Besides, this is doing Justice to the Com——oners; for they have here a full and fair Charge, all the World are their Jury, and the whole House of Commons their Court of Appeal. If they can detect the Relation, either of Slander, false relating, misrepresenting or Straining any Thing to their Prejudice; they have compleat Room to vindicate themselves, they have sufficient leisure before the Sitting of the House to Answer and Confute it, and they have all the Courts of Justice in the Nation open to them, to Claim their Remedy against the Author of this, who is so far from concealing himself, that on the least Summons he will hold his Face to every Particular, even at the Bar of the highest Justice in the Nation. Nor is this said to Challenge them, for he knows their Power and at whose Cost they sue, but in Assurance that in this Relation he designs them no Injustice, and to assure the World of the Truth of every part of the Fact related.

REMARKS

PREFACE
TO THE
Commons of ENGLAND,
In Parliament Assembled.

Right Honourable,

AS your Assembly is the Source and Original of Legislative Authority, so you are allow'd to be the only Sovereign Expositors of those Laws you make.

When the People of England find themselves oppress'd and crush'd by the partial and Corrupt Interpretations of our Laws, and by Turns, and far fetch'd Devices of designing Men, robb'd and plunder'd on pretence of Legal Authority, to you they have Recourse, farther to explain, and expressly to declare the true Meaning and Design of the Laws, by which they are so abus'd.

When by a long since Dormant Law, you order'd that the Brewers and Distillers, in Case of a small Penalty of 5 l. and no more, as to the Excise, upon certain Miscarriages when committed, should be decisively heard by Commissioners, &c. It cannot be imagin'd your Honours ever design'd to condemn the Brewers and Distillers, to the Loss of their Native Priveleges, as English Men; and that they, of all Men in England, should alone be so unhappy, as not to be thought worthy of their Share in the Magna Charta of England, viz. to be tried by their Peers.

This

P R E F A C E.

This Consideration, as it is hoped it will move your Honours to redress their intollerable Pressures, under the present Tyranny of the Com——oners of Excise, so they believe it will be yet more moving to your Honours, when you shall please to reflect, that the said Penalties being risen, by sundry subsequent Acts, and Additional Clauses to the Laws of Excise, from 5 l. to immense Sums; a Brewer or Distiller may now come to forfeit 2 or 300 l. per Diem. And that your Honours will agree, 'Tis of much more Consequence, that they should be heard in such Cases before just and indifferent Judges, and be tried, as is the undoubted Right of English Men, by their Peers.

The following Sheets will shew your Honours some sad Examples, of the Subject ruin'd and injur'd by the Tyranny and Injustice of Com——oners, vested with this exorbitant Power, which will, without Question, move your Honours to put such Restraints upon them, that the like destructive Measures may not be taken for the future.

The Brewers and Distillers are a People, from whose Industry and Stock in Trade, the greatest Branch, perhaps of any single Revenue in Europe is rais'd; and 'tis humbly hop'd, his should rather entitle them to the Care and Tendernefs of th: Government, than reduce them to a Condition, in which their Property should be less safe, and their Principles more straitned than other Men: All which is humbly represented to your Honours, and together with the following Sheets, humbly submitted to your Censure and Determination.

R E.

Remarks on the horrible Oppressions, &c.

OF THE

Com—oners of the E—ise.

IT is remarkable of *England*, and I mention it to the Honour of Free born Nations in general, That no People in the World pay their Taxes with more Freedom and Chearfulness.

But two Things are always requir'd by them in the Matter of Publick Taxings, which if once they are satisfied in, they look no farther.

1. That they are Legally Exacted.
2. Equally Collected.

To have a Tax or Duty Legally Enacted, requires but one establish'd Qualification, known and understood by all Men, *viz.* That it be consented to in Parliament, pass'd into an Act by the Lords and Commons duly assembled, and obtain the Royal Assent, in due Form; when thus it becomes a Law, no *English* Man will open his Mouth, but immediately opens his Purse, and frankly parts with his Money.

It is no part of my Business here to descend to Particulars, or to shew how many Taxes, perhaps more in proportion than any Nation in the World, are thus rais'd in this Kingdom, and how chearfully paid by the People; or what Mischiefs have attended the several Attempts to raise Money by Illegal and Exotick Methods, the most immediate Handle of Civil Tyranny, odious to, and particularly watch'd against, by the People of *England*; and whenever impos'd, or attempted to be so, always vigorously opposed, and more than once to the Destruction of the Contrivers.

Nor had I mentioned it here, but for this Réason; that if the People of *England* have always been, and still are so jealous of this particular Priviledge, that they cannot be Tax'd, but by their own Consent in Parliament; and the highest Invaders of this Priviledge have been ruin'd by it; what ought they to expect from the same Resentment, who levy Taxes, when legally given, different from the true Intent and Design of the Law granting?

These raise Money without Consent of Parliament, in the worst and most destructive manner, and ought to look back to the *Spencers* and *Gavestons* of old, who abused the Law, and the Favour of their Prince, in Illegal Extortions, Briberies, and Corruptions, and sell a Sacrifice to the Nation's Justice; and tho' indeed the Cases differ, yet in this they agree, that the Subject was both ways plunder'd and rifled, under pretence, and by the Forms of Law.

The Extortions now before us, as they are not inferiour to any that have gone before them, so they have this more fatal Disaster in them, that the injur'd Subject is lock'd up by the Law, to be judg'd, try'd and condemn'd, by the very Parties who are employ'd against him; and when he appeals from them, he only appeals to them; for he finds his Adversaries upon the Bench ready, and God knows how empower'd, to sway and determine the Cause as they please.

The Evidence in these Mock Trials, is always the Person that contrives the Accusation; who having form'd the Plot against an innocent Man, obtains half the Spoil for Swearing.

The Case is then brought before the Com—oners, who hear, judge and try the Cause before hand, and condemn or acquit, as they think fit.

Thus no Man's Estate is safe; for what security can there be to any Man, if the Property and Industry of the Subject is destroy'd, by infinite Corruptions, Partialities, and abominable Practices, to the Shame and Reproach of Justice, Scandal of a well ordered Government, encouraging all sorts of Briberies and Perjuries, and the Ruin of a Multitude of honest Families, that fall into the merciless Hands of Lawless and furious Invaders.

And

And which is still more wonderful, when all this is practised in the Time, under the Authority, and in the Name of a Government, and a Queen, that desires none of her Subjects should be oppress'd: Her Majesty denys Justice to no Man, oppresses no Man, nor covers any Man's Property, much less would permit any Subject, Commission'd by her Authority, to oppress their Fellow Subjects. No Injury can be committed in *England*, but if the Government be rightly inform'd of it, will obtain Redress; and all due Encouragement is given to reasonable Complainers.

These Things considered, have obliged the Author of this Tract to prepare these Sheets for publick View, in which the following Particulars shall be faithfully perused, and impartially related; and I hope the extraordinary Consequence of this Publication to the Nation, in the awakening Justice to protect innocent Families, will be a sufficient Justification of this Attempt.

I take the Liberty to assure the Persons concern'd, that the Author of this has been no Sufferer by any of their Oppressions; but as the Daily Clamours and Complaints of the People, ruin'd and injur'd by unheard of Violence, fill our Streets, expose the Justice of our Government, and threaten us with worse Consequences from the Example, he has concern'd himself to enquire into the Particulars; which he finds so unusually bad, so universally oppressive, and so notoriously partial and unjust, that in Order to immediate Redress of the Persons now suffering, and more especially in order to prevent the growing Tyranny of unreasonable People, who make use of the Power granted them, to rob and ruin the Subject, I thought it a special Service to the Publick to lay this Matter open.

And here I shall necessarily examine Two Things.

1. Whether there is not an Exorbitant Power, Arbitrary, and in its Nature Illegal, *tho' Listerally otherwise*, accidentally, and perhaps unwarily put into the Hands of the Com——ishers of E——ise?

2. Whether they have not made use of that Power to different Purposes, from the true Intent of the Law, from whence they derive it?

If in this Enquiry, Bribery, Corruption, and Partiality appear fairly chargeable upon both Masters and Servants, Commoners and Officers, in their executing the Laws of Excise; if Thousands of People appear injur'd and oppress'd, the Trade it self discourag'd, the publick Duties lessen'd, flourishing Families ruin'd, and the Property of the *English* Subject invaded, the Gentlemen, whose Guilt will make them appear concern'd, must blush for themselves; they can have no body to blame, that Grievances of this Nature at last reach the Ears of those, in whose Power only it is to redress them.

1. I am to enquire, Whether there is not an Exorbitant Power, Arbitrary, and in its Nature Illegal, *tho' Literally otherwise*, accidentally, and perhaps unwarily put into the Hands of the Commoners of Excise?

And this will be best enquired into, by considering briefly the Laws of *England*, in their general Design, the Nature and Reason of them.

The general Design of Law is, to prevent Oppressions of all sorts, Injustice and unfair Usage on either hand, to hold the Scale of Power, and judge between the strong and the weak.

The Nature and Reason of Law is, to regulate the Government of a People, and to bring methods of Rule to a stated, known and publick Center, that if the guilty offend, the Governors know what to inflict, the Governed what to expect.

Now our *English* Laws have nothing more admirable in them, than the reducing the Government of Mankind to an Equality, and such a Scale of Justice mingled with Right and Liberty as no one may have Cause to complain of being oppress'd, nor any Branch, or Part of the Constitution, be entrusted with more Power than is proper; or with so much Power, as to enable them to oppress or injure another.

Among other of the native Branches of Justice, for which our *English* Laws are famous, and on the Foot of which this Nation

Nation has risen up to such a degree of Prosperity and Riches, these are some.

1. That every *English* Man offending or trespassing, shall have a fair Tryal, and shall be judged by his Peers, and not otherwise.
2. That indifferent Judges shall try the Cause between the Prince and the Subject, and not Parties concern'd.
3. That no Man shall be admitted as Evidence in a Cause where he shall be Gainer by the Condemnation of the Person he witnesses against.

I could quote innumerable Statutes, and parallel Cases to prove this; the first is a Branch of *Magna Charta*, and the known Right of the People of *England*, purchas'd with their Blood and Treasure, and carefully preserv'd by our Ancestors to us their Posterity.

The second and third being founded in Reason, and daily found in the Usage of the Law and common practice of Courts, needs no Recital.

Now if these three known Maxims of Law are invaded or intrench'd upon in the present Case, I leave it to all indifferent People to judge, Whether the Com—oners of E—ise are not vested with an exorbitant Power, illegal in its own Nature, and contrary to the Rights and Priveledges of the *English* Nation.

That this Power is vested in them by Parliament, and consequently is literally Legal, I do not deny; but then I desire to examine how it came to be so? And how it is improv'd by the Com—oners? And this in Order humbly to represent it in its season to that Honourable Assembly, and shew them, That the Power thus deputed is, by those Abuses, become so Exorbitant, as it is well worth their Honours Enquiry, Whether it is not injurious to the Subject, and too much to be entrusted or committed to any Set of Men, less than a Parliamentary Assembly.

'Tis true, the Act that first left the determination of Offences against the Laws of Exile to the Com—oners, has now remain'd for a considerable Time, that is to say, from the

12th of Charles II. and is entitl'd, *An Act to take away the Courts of Wards and Liveries, &c.*

And the several Acts since made, viz, for additional Duties, Penalties, and Forfeitures having all had their Reference back to that Act, have seem'd too much to depend upon the Justice and Equality of that first Law, and thereby left the Delinquent to the mercy of his Accuser, and to the corrupt Sentence of an Arbitrary Enemy, too often, *as some say there is good Cause to fear*, interested in the Sentence he passes.

Now as when the Act was first pass'd, the Severity of it was not much regarded, the Penalties being small, and not exceeding 5 *l.* for any Offence; so 'tis humbly conceiv'd, had that Parliament thought fit, at that Time, to have laid the severe Penalties of 200 *l.* 100, 50, or 20 *l.* and the other various Forfeitures; by which one Man may, in his common way of Trade, become liable to the Forfeiture of 1000 *l.* per Week; it is humbly submitted to the publick Judgment, whether I am too presuming, if I say, 'tis very likely the Parliament would have been very cautious in the Matter, and have consider'd it again and again, before they gave such exorbitant absolute Powers to Men of Places, and Court Commissioners; who if they are not, are however to be suppos'd, capable of being Mercenary and Tyrannical.

This Law therefore is, in its Execution and Construction, contrary to the Native Right of *English* Men; and I hope, cannot but be thought hard, that the Distillers and Brewers, who pay the most Taxes, to the general support and carrying on the War, should be the only People, who must not enjoy the common Priveledges of *English* Men, and whose Offences must be tried differing ways, from all the rest of the free born People of this Nation.

I know it will be objected here, That the Parliament have taken care of the Subjects Rights in this Case, by establishing Com—oners of Appeal, where the Subject is to have Redress.

Now tho' 'tis true in the Nature of the thing, that to erect a Court of Appeal has a very great Face of Justice in it; and no question, the Parliament who establish'd that part of it, thought

thought they had provided for all the Evils that could befall the injur'd Subject.

Yet when the Conduct, and indeed the Capacity of these Com—oners of Appeal come to be examin'd, when the Concert between them, and the Persons appeal'd from, comes to appear, how little Redress they give in Cases of notorious Injury, and Abuse of the Subject; how tedious, chargeable, litigious, and fruitless these Appeals are, how often the Appellant finds his Adversaries, the Com—oners, sitting on Bench with the Com—oners of Appeal, hearing the Cause again: If they command the Bar of the Judges of Appeal, influencing and byassing, and *too much governing* their Opinions; when once the Crimes of these Judges comes to light, and the black List of their partial and fraudulent Methods shall appear, it will easily convince our Legislators, that to make Com—oners of Appeals in such a manner, &c. to such People, is to commit the suffering Subject to the Mercy of his exorbitant Enemy: And I believe, I may offer in the Name of the Brewers and Distillers in London, that they would give 20000 l. to have a fair Appeal to indifferent Judges, Men of Knowledge in the Law, and Conscience in Practice, and to have all the Causes heard again before them, for which they have been, unjustly sentenced and fined, by the proceedings of the present Com—oners.

If these things are true, as they have reason to believe they are, and of which any Man is Judge, when he reads the Historical Collections of Matter of Fact at the End of this Treatise, it cannot but be own'd 'tis high time to lay this before the Parliament of England, where such Grievances as these never want Redress, nor the injur'd Subject cannot fail of being impartially heard and reliev'd.

2. It follows to enquire, whether these Com—oners have not applied this Power, vested in them by the Law, to different Purposes from the true Intent, &c.

This will in nothing better appear, than in the five Heads of Articles exhibited to the Parliament, in a Paper printed by the

the Distillers; and presented to the Members with their Petition; and which are as follows.

INformations being exhibited, unknown to the Persons inform'd against, tho' pretended Summons have been sent, frequently are suffer'd to lie several Years unpursu'd, 'till the Servants and Witnesses, by which the Persons accus'd might defend themselves, are gone from them, or dead, or have forgot the Particulars.

2. On the other hand, Complaints made by the Distillers, for the Injuries and Out-rages of their Officers have been so long left unheard, 'till they have not been able to make out the Particulars, for the same Reasons, as in the Head above.

3. That they Arbitrarily take upon them to determine Property, and refusing the Duty, when lawfully tendred by the right Owners, and Persons from whom it is legally and only due, demand it of others wholly unconcern'd, and pretend to Forfeitures for the Default.

4. That when they have been summon'd to Trials, on either Informations or Complaints, and have duly attended with Counsel and Witnesses, they have been put off from time to time without Reason given, on purpose to tire them out with the Charge and Expence of Attendance.

5. That sundry Persons have been condemn'd and fin'd, by the arbitrary Sentence of the Com—oners; and at other times have been acquitted for the same kind of Fact, which to Day is, and to Morrow is not; or in this Person is, and in another Person is not a Crime, according to the Pleasure of the Com—oners: By which means, innocent Men are led into Crimes, by the Allowance of those very Men, that afterwards censure and condemn what they before approv'd: And no Man can know when he acts safely, and when not.

Before I enter into an Explication of the particular Practices of the Com—oners, in the Execution of the aforesaid exorbitant Power, it will be necessary a little to explain a Defect in the late Constitution of the Excise, which is since, at the Motion

motion of the Distillers, rectified in Parliament the very last Session; and in our Enquiry after which, Two strange Paradoxes will appear and be unriddled also to every Body's Understanding.

1. That it may come to pass, that the Com——oners of E——ise, whose Duty it is to improve the Duty, may think themselves oblig'd to lessen it one third part, for the great Profit and Encrease of the said Revenue.
2. That it may so happen, that the Distillers, to save their Money, may become humble Petitioners to the Parliament, that they may be Tax'd at one third more upon their Product, than they were before, and yet not sell it the dearer neither.

To come to the true Understanding of these dark and mysterious Things, it is necessary to acquaint the World, that the last Session of Parliament divers Distillers, and one Mr. Fuller among the rest, for which he never expects nor desires to be forgiven by the Com——oners, finding the Oppressions and Vexations of these litigious People intolerable, address'd themselves to the Parliament, to obtain a Clause for ascertaining the Quantity of Low Wines and Spirits, which they should be charg'd with upon every proportion'd Quantity of Wort or Wash.

In their Application for this they alledg'd, That thus adjusting the Duty would have this Advantage to the Crown, *viz.* That the Wash generally running more than the Charge, the Officer being left at Discretion, it would encrease the Duty, at least one third part.

The Advantages to Trade were, that there would be no Room for the Officers, who now were left at Discretion, for want of Bribes to oppress one, or by the help of a Bribe to favour another, and the Subject would be freed from the many vexatious Suits, on pretence of Frauds, Concealments, and the like, by which they ruin'd several Families, and injur'd more.

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Secondly,

Secondly, Every Man now paying alike, the Advantages which those had, who in Concert with the Officers defrauded the Government, and thereby injur'd Trade; would be taken away, and all Men would stand upon an equal Foot, according to the Rules of Reason and Justice.

In the pressing and defending this Motion, it was very odd, and not a little diverting, to hear the Com—oner on one side tell the Distiller his Wash would run but so far, and the Distiller telling him it would run so far, and one third farther; and a By-stander could not but smile to have heard the common Discourse, how the Com—oner and Distiller's Quarrel was express'd in the following short Dialogue, supposing the Names to be Tow—end Com—oner, Fuller Distiller; whether there are any such Men or no, I know them not, nor is it to my purpose. You may call them any Body else, if you please, but their Discourse will be the same.

Tow—end. What do you petition for?

F. Distiller. To pay more Duty upon Low Wines.

Tow—end. I shall oppose you.

Fuller. Why so?

Tow—end. Because you pay enough already.

Fuller. But we are willing to pay more.

Tow—end. But you shan't; the Queen has enough of you.

Fuller. She han't enough; and we will pay more.

Tow—end. How will you pay it?

Fuller. Why our Wash is not charg'd to the height, as the Act directs.

Tow—end. It is charg'd at $\frac{1}{2}$ and $\frac{1}{2}$ lb. Is not that enough?

Fuller. No, 'tis not enough; for it is to be charg'd what it will run, and it will run more.

Tow—end. It won't run more.

Fuller. It will run more, and I know it does run more, and therefore we shall pay it.

Tow—end. I am resolv'd you shall not pay it.

Fuller. Then you'll cheat the Queen, not We.

Tow—end. I care not for that.

[Exit Excise man.]

Fuller. I believe so.

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A very pretty Dialogue this is ; for the Jest lies upon the Com——oner pleading against the Queen's Duty, and the Distiller for it ; the Com——oner opposing the Encrease of the Tax, the Distiller striving to be charg'd higher than he was before.

Now that this Wonder may be remov'd, 'tis necessary to enquire into the Riddle a little, and lay it open to the World. The Case is this.

The Distiller has been so continually oppress'd by the Partiality of the Officers, to Day charging less, to Morrow more, charging more to one Man, less to another, and by that giving to those whom they pleas'd to favour, unjust Advantages over their Neighbours, taking Occasions from a discretionary Power to use those ill that they thought fit to disoblige, drawing Men first into Snares, and then accusing them, *and the like*, that it became intollerable.

To prevent this, and set themselves free from these Inconveniences, as all Men are willing to purchase their Liberty, tho' they buy it dear, I am told they often propos'd to the Com——oners that they should settle the Payment upon the Low Wines, though it were at the Extremity of what they would run, and they would consent to pay the highest, so they were at a Certainty, and they might but be freed from the daily litigious Humours of the Officers, and besure that every one had Neighbour's Fare, and paid alike.

The Officers, who by their pretended Informations, under the shelter of the Com——oners Favour, made these Oppressions very profitable to them, found, that if this Proposal went on, they should have little or no Profits, their Salleries excepted, and should be reduc'd to a Road of Business, in which the Distiller could commit no Mistake, and consequently their plundering Trade would cease, they therefore make great Opposition against this Proposal ; and the Com——oners, who had no other way to gratifie their Officers, that shew'd themselves officiously diligent in their Office, and make an Appearance of Serviceableness, fall in with their Officers, and refused this most reasonable Proposal.

I will not say that their opposing it had the main and capital Reason annex'd, *viz.* sharing the Profits of the Fines and Forfeitures, and those exorbitant Sums they extorted on these Occasions; but without injuring them, I believe I may say, all the World, that enter into the Particulars, will be of that Opinion, *but me.*

For what else can common Reasoning infer, when Men who by the Duty of their Office ought to advance the Revenue, by all reasonable and just Methods, so far as those Methods correspond with the true Intent and Meaning of the Laws of Excise, should refuse an Offer, that they know would encrease the Duty at least one third part, and quit the Office both of the Trouble and Scandal of innumerable Prosecutions, which to honest Men, would be their Burthen, not their Pleasure.

'Tis a plain Case, that the Meaning of a Law, to which Penalties are annex'd, is not the putting in Execution the Penalties, but the Performance of that for which those Penalties are plac'd as a Guard, *viz.* the Payment of the full Duty, if the Duty may be ascertain'd and secur'd without the Penalty, the End of the Law is more fully and compleatly answer'd, than if it be done with it; since Punishments in the Sense of the Law, are not inflicted by way of Satisfaction for the Offence, so much as *in Terrorem*, by way of Example to deter Others from committing, and the Criminal from repeating the Offence.

To have the Com——oners therefore refuse an Offer, for ascertaining and securing a compleat Obedience to the Law under their Management, and choose to apply themselves to the Coercive Part of it, *viz.* the Penalty; People will be apt to guess that this must arise from other Principles than a bare Desire of executing their Power, and discharging their Duty, according to the true Intent and Meaning of the Law.

But when to this is added, that they choose the Coercive Part, when they are offer'd, to have the Duty *not only secur'd*, but encreas'd; and that they shall be content the Government shall receive less by one third part of the real Due, than by fair and ascertain'd Rules they might obtain, rather than have
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the Rod taken out of their Hands, and the penal part of the Law laid asleep ; *when this appears*, tho' I may be backward in calling them *Mercenaries*, and *Men regarding not their Duty*, but seeking to make their private Gain out of publick Oppressions, I doubt few others will be so sparing in the Point.

For, what else should be the Reason of the many Vexations, and Oppressive Dealings, Tradesmen daily say they meet with at their Board, where they ill treat Men, every way their Superiours, *their Commissions excepted*; and without Respect to Justice, debase that Commission, in stooping their Authority to Things below any Man that serves a Prince of so much Justice and Moderation; and who, they ought to know, desires not to have any of her Subjects oppress'd, or trampled on, by the meanest Branch of her Power.

When Men therefore descend to taunt and insult those that come before them for Justice, when they justify and support their Officers in their ill treating the Families of *better Men than themselves*, when they *delay* and *deny* Justice to those that complain to them, *dispense* with the Laws they ought *in Duty* to execute, when they pursue their Place with apparent personal Pique at particular Men, and assault their Reputation, in order to ruin them in their Trades; when they point and single Men out to load them on all Occasions, and take all possible Advantages to their Destruction; when these are the Methods by which they execute their Office, I must tell them, first they do what neither the Law designs, nor the Queen approves, who desires all her Subjects may be treated with *Tenderness and Gentleness*, and the Duties according to Law being duly paid, there should be no Violence or Oppressions made use of, nor any Body rendred uneasy, much less injur'd and affronted.

'Tis true, the Particulars above ought not to be insisted upon, unless there were some Ground to believe them to be true; and therefore to justify this short Excursion, some Examples shall illustrate the Case: And if Matters of Fact leave any thing black upon these Gentlemen, they must blame their own Conduct, since 'tis impossible such Things as these can
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be long conceal'd from the World, nor can I believe the Com—
—oners can be so weak as to expect it.

The Distillers having, as is before observ'd, frequently made this Proposal, for ascertaining the Lengths of their Wash, but to no purpose, and finding it in vain to solicit Men, who appear'd, both by their Interest and Inclination, partial to themselves; and that even offering an Encrease to the Duty would not prevail, resolv'd to lay the Case before the Parliament.

And here the Com—oners met with the first Blow to their exorbitant Power; for when the Members of the *House of Commons* came to examine a little into the Particulars, it was a Mystery no Man could understand, but those that were in the Secret, why the Lengths should be left to the Discretion of the Officer, to favour or oppress who he pleas'd, when the Distiller was willing to be fix'd at the highest Charge they could make. It was an Argument no body durst oppose there, whatever they did other ways, when the Distiller offered to increase the Duty one third part, only to be out of the Power of the Officers: And therefore, tho' the Com—oners did make a faint Resistance, yet their Cause was too bad to be well defended; and if they had entred into the Particulars, something too gross for them to justify might perhaps have appear'd in it, so they gave up the Cause, and the Point was carried.

But as this was no small Mortification to that whole Set of People call'd Gaugers, as well as their Supporters the Com—oners; so it comes of Course to examine what Methods they took, to shew their Resentment for the Loss of the sweet Income they us'd to make of these Oppressions: And if this does introduce a black Roll of some of the worst Actions that ever Men, entrusted with the Management of Justice, under a Reign so mild, so gentle, and so just as this is, could be imagin'd to be guilty of, I cannot help it.

How they come to venture upon such Things, and how it could enter into their Thoughts, to imagine they should not be call'd to an Account for such Proceedings is hard to guess, unless

unless it be that they found themselves encourag'd, by having the better of the Distillers in the preceeding Parliament; when Things in general carrying something a differing Face to what they have since the Com——oners ventur'd to appear publicly in Defence of their preposterous Methods, and carried their Point by four Voices.

But now finding the Way to Justice more easy for the Subject, and the Door wide open to just Complaints, their Hearts fail'd them, and they made a more faint Opposition, knowing that more fatal Complaints lay hid in the Consequences of these Things.

But as Men of Crime are generally infatuated in either carrying on or concealing their Follies, so Fate that ow'd these Gentlemen an ill Turn, prompted them to such false Steps, as has sufficiently detected them; for when Weakness and Wickedness go hand in hand, he must be very blind, and capable of giving no Judgment in common Affairs, that does not see them both together.

Having noted that in the last Parliament they carried their Point by a Majority of four Voices in the House, it comes of course to examine a little of their Conduct upon that Success.

Flush'd with the Victory, and not troubling themselves to look forward to what might be the Effects of another Parliament, or of a farther Enquiry into the Matter, they fell to making use of their Advantages so, as they thought might terrify any body from daring to instruct them again in their Business: And as Kings, after a Tumult or Insurrection in their Government is happily suppress'd, begin to enquire for the Ring-Leaders of those Broils, in order to bring them to Punishment, so these Gentlemen, made haughty by their fancy'd Success, enquire who were the principal Persons who dar'd to say, they did not make the best of the Queen's Duty.

They that seek for an Occasion to do ill never want Informers, that can either find or forge Crimes, by which to give them Handles to ruin Men when they find it to their Purpose. These Gentlemen soon understood, that one Mr. Fuller was a principal Agent in this

this Matter ; and, as they stiled him, was the Ring-Leader of this Rebellion against Her Majesty's Com——oners.

There happened, to their great Mortification, one Difficulty in the way of their Resentment, *viz.* that this Mr. *Fuller* had been a Distiller, but had lately left off his Trade, and divided his Work-houses, Utensils, &c. between his Two Daughters, who now carried on the Trade severally, and apart on their own private Accounts, and so Mr. *Fuller* was very unhappily out of their Reach ; and all the Machines they had ready to torment him with, were rendred wholly useless.

Calling a Council upon this Emergence, a way was found out to their mighty Satisfaction, how to master this Difficulty ; and the Proceedings, upon this new Discovery, will be the Subject of our first Observation, in which, I doubt not, the Relation will be very diverting to the Reader, as it has been mortifying to my Masters the Com——oners. If any thing particularly scandalous to their Morals, happens in my way from this Account, I shall endeavour to be as tender of them as the Case will bear ; since should the whole be seen in its true Colours, with all its Aggravations, I should be afraid for them, that publick Justice should concern it self in the Case.

The first Step taken with Mr. *Fuller*, upon the new Result of the above noted Councils, was to determine that the Alienation of his Trade or Effects to his Daughters was a Sham, a Design only to skreen himself from the Law, and that the Trade was still Mr. *Fuller's*, and not his Daughter's, and therefore as such they resolv'd to proceed with him.

The next Work was to enquire what Advantages they had upon him from this Supposition ; and here began the black Scene to open ; and I confess, when I see how heartily these Gentlemen had cut out Destruction for an innocent Person and his Family, with what Eagerness they had devour'd him, how the Insolence of the Officers was grown to that heighth, that one of them had the Face to boast he did not doubt but to keep his Coach out of his Share of Mr. *Fuller's* Estate ; when I reflect on all this, as the Product of private Revenge, and a personal

personal Resentment, only for his attempting to pay more, not less than they rais'd before, I cannot but conclude, there must be something very unaccountable in the general Practice of collecting of the Revenue of Excise, which stands in need of something so bad to cover and defend it; but more of this will be discovered in the Sequel of this Story.

Among the vast variety of Penalties upon Mr. Fuller, supposing the two Still houses were his own, this was the first.

It is a Clause among the Laws of *Excise*, in the Act of 7th William III. *That no Distiller shall work a House of Melasses Spirit, and another of Malted Corn, at the same time, under the Penalty of 5l. per Barrel for all Malt Wash.* Now Mr. Fuller having two Offices for Distilling, distinct in all their Parts, and at 40 Yards Distance from one another, had set up one of his Daughters in one Still-House, and one in another; and having given them several and separate Stocks, they traded apart one in one House, and one in another; one distilled from Melasses, &c. the other from Malted Corn.

But to carry the whole Story here along with me, it will be needful to enter into the Matter of Fact, how and in what manner Mr. Fuller had dispos'd of his Trade and Work-Houses to his Daughters, as appear'd upon Trial.

Mr. Fuller had a large Building near *Cow Cross*, which with the Yards, Offices, and Appurtenances, took up half an Acre of Ground at least, and had been divided into two Distilling-Houses for above Fifteen Years; which is noted, because the Com—oners alledg'd it otherwise, as will appear presently.

Mr. Fuller, about two Years ago, being willing to leave off Part of his Trade, gave his eldest Daughter *Hester Fuller*, one part of this Building, and a Stock to carry on the Trade; and this Daughter of Mr. Fuller's caus'd a Still-House for Distilling Melasses to be built on her Part.

Here she carried on the Trade in her own Name, entered the House at the *Excise-Office* as her own, went on with her Business regularly; the Officers charg'd her with the Duty, her Servants constantly paid it at the *Excise-Office* in her own Name; and the Com—oners receiv'd it, and she has her

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Receipts

Receipts for it all in her own Name for 17 Months running, during which Time she paid the Queen 729 *l.* 5 *s.* 8 *d.* Duty on her own particular Account.

During part of this Time her Father, Mr. *Fuller*, carried on the other House, distilling from Malted Corn, and duly paid the Excise for his Part in his own Name, for about eight Months, and no pretence of Dislike was offered, either by the Com——oners, or their Officers, at either of these Cafes.

After this, Mr. *Fuller* being oblig'd by his Family Affairs, to change some Settlements he had made, and make others in Lieu thereof, by the Consequence of these Things came to settle a certain Sum of Money, as a Personal Estate, upon his youngest Daughter, *Millicent Fuller*, as he had before done upon his eldest.

In doing this, finding his eldest Daughter go on in her Business with reasonable Success, and being loth the other Part of the Trade should be lost from his Family, intending to draw himself out of Trade, and live retir'd, he resolv'd to give the Trade and Stock of the other Still-House, which he then manag'd, to his said youngest Daughter, *Millicent Fuller*, and to settle her in the same.

When he had done this, his Daughter being then under Age, and going to enter upon the Business, the Excise-men made some Difficulty of accepting her in the Office, or entering the House in her Name; and though the Reasons they gave were very insignificant, yet to avoid any Disputes, those Gentlemen not being always to be govern'd by Arguments, Mrs. *Fuller* enter'd her House in the Name of *John Davis*, but in Trust, for the sole Use and Benefit of *Millicent Fuller*; and this was accordingly accepted at the *Excise-Office*, and she went on for ten Months in her Business, and in that Time paid 667 *l.* 8 *s.* 6 *d.* to the Queen for Excise, no Fraud, no Pretence or Complaint being at any time alledg'd or made against the said Houses. And thus stood the State of Mr. *Fuller's* Affairs, when about last, Mrs. *Fuller*, not being very easy to repose so great a Trust in the said *Davis*, ordered the said

said *Davis* to surrender the same, and desired that the House and Trade might be carried on in her own Name.

But it was surprizing, when upon Application to the Com—oners, they would neither suffer the House to be enter'd in Mr. *Fuller's* youngest Daughter's Name, no nor in *Davis's* Name, as before ; and not only so, but that they would not suffer his orher Daughter to continue the Melasses Trade in her Name neither, but would have it all put back into Mr. *Fuller's* Name: In answer to which, when Mr. *Fuller* alledg'd he had given it to his Daughter about two Years ago, he was told, the Com—oners would take *Esther Fuller's* House away from her again, and give it him ; that when they were of Age he might give them what he pleas'd, but they would not allow any Bargains he had made with them before.

At another Time they had the Weakness to tell him, by one of their Officers, that he ought not to give his Daughters so much, and that they could not agree to it for several Reasons ; but they assign'd but one, which was a very kind one, viz. That he might come to want himself.

Now as Mr. *Fuller* was perfectly ignorant of the Plots laid against him, in order to make that last Reason be true, and that the Com—oners had resolv'd, if possible, to reduce him to want, he could not be so sensible of their Care of him as he is since ; and so wanted Gratitude to thank them, but I dare say he will not now be wanting in his Civility to them that way, upon all reasonable Occasions.

Well let that be how it will, pursuant to the Measures these Gentlemen had taken among themselves, they refused to take any more Entries from either of Mr. *Fuller's* Daughters ; whereupon the youngest left off Work for the present, but Mrs. *Esther Fuller* went on with her Business, tendring the Duty Monthly at the *Excise-Office*, but to no Purpose, they positively refusing to accept it, but in the Name of her Father.

And now Things grew ripe for Execution, and the Flame broke out ; for having resolv'd both the Houses to be Mr. *Fuller's*, though they made themselves therein Judges of Property, which as I conceive, by no Authority belongs to them ;

on the 23d of *March*, 1704. they exhibited an Information against Mr. *Fuller*, for 260 *l.* Forfeiture for one Day Working of two Houses contrary to Law, he being charg'd in the said Information as Owner of both, tho' 'tis plain he had not the least Right or Concern in either; and that at the very same time they charg'd *Esther Fuller* and *John Davis* with the respective Duties of each House.

And here it may be noted, that could they have brought this Information to bear, the Officer was not out in his Calculation, of keeping his Coach out of Mr. *Fuller's* Estate; since by this Act they might have recovered about 1200 *l.* per Week Penalty upon him for about Thirty Weeks, if they could have prov'd the Property to be in Mr. *Fuller*.

But this was not all, or indeed but the least part of the Design, form'd for this Gentleman's Destruction, for from this time their Cashier refus'd any Money from either of the Daughters of Mr. *Fuller* in their own Names, tho' they made due Tenders of it Monthly at the Office. Having thus brought the Duty to an Arrear, they charge it on Mr. *Fuller*, and by Virtue of an Act of Parliament, which obliges the Distiller to pay double Duty, if not paid within the next Month after charg'd, they first bring an Information against Mr. *Fuller* for 216 *l.* for one Month, and so on, 'till by the Penalty and the Duty, being Judges and Accusers themselves, they fin'd him about 2000 *l.*

In pursuance of this Proceeding, a Warrant of Distrain upon his Goods was granted; and with this they come to Mrs. *Esther Fuller's* Still-House, and as they had fin'd her Father for her Debt, so they double the Mistake now, and seize her Goods for her Father's Fine. How they hamper'd themselves here will appear by and by; but in mean time we must go on with examining the Matter of Fact.

They seiz'd of Mrs. *Esther Fuller's* Goods 10 Hogsheads of Melasses, which cost her 92 *l.* 8 *s.* 6 *d.* And as Injuries seldom come alone, these were sold at almost 30 per Cent Loss, tho' at the same time a very good Commodity, and indeed any body's Money, being sold but for 64 *l.* 8 *s.* 8 *d.*

Things

Things were come now to a due Height, and Mr. Fuller was brought to that Crisis of Affairs, he must either be reliev'd by a Superiour Power, or be torn to pieces by these Gentlemen the Com—oners.

However, to try all the Methods that were soft and easy, and if possible, to obtain Redress by regular Steps, Mr. Fuller first complain'd of this Wrong to my Lord Treasurer, in an humble Petition, laying before his Lordship his Case, as charg'd with the Duty of Excise, when he was no ways concern'd in the Trade; the true Copy of which Petition is as follows.

To the Right Honourable Sidney, Lord Godolphin, Lord High Treasurer of England.

The humble Petition of John Fuller, Gent.

Sheweth,

THat the Officers of Excise have charg'd your Petitioner for Seven Months last past; ending in October, with the Duty of Excise of two Distilling-Houses, which amounts to 556l 3s. 3d. altho' he has not any Right or Property in either of them; and the Owners hereof have made their due Entries at their first Beginning, and Monthly as the Law directs, and did for a considerable time pay the Excise that was charg'd on them, and have for Seven Months Monthly sent their Money to the Excise-Office, as it became due, as they always used to do: But the Commissioners ordered that it should not be taken, and have granted Warrants against your Petitioner for double the Sum above mentioned, notwithstanding there is not any thing due from your Petitioner; which Proceedings do hinder the Queen of about 80l. per Month, and the Consumption of about 400 Quarters of Malted Corn per Month. Wherefore your Petitioner humbly prays, That your Lordship will be pleas'd to take the Premises into your Consideration, and to hear your Petitioner and his Council: And your Petitioner shall pray, &c.

Upon

Upon the Delivery of this Petition, and its being referr'd, as is usual in such Cases, to the Com—oners to give in their Report, they gave it in so Worded, that my Lord Treasurer was pleas'd to think them in the Right: And being heightned by that Success, they redoubled their Warmth upon Mr. Fuller and his Daughter.

Mrs. *Esther Fuller*, in the mean time, brought her Action for her Melasses in Her Majesty's Court of *Common Pleas*, and for Damages sustain'd by the Seizure; this Suit being commenc'd in *Michaelmas* Term last against the Officers that carried the Goods away, and the Carmen and Porters their Assistants, was defended by the Com—oners; and it being not to be brought to Tryal till the 13th Day of *February* following, I shall, in the mean time, consider the Answer of the Com—oners to my Lord Treasurer's Reference, containing the principal Part of their most Imperfect Defence at the Tryal, as follows.

To the Right Honourable Sidney, Lord Godolphin, Lord High Treasurer of England.

May it please your Lordship,

IN Obedience to your Lordship's Order of Reference on the Petition of John Fuller, hereunto annexed, We do humbly certify, That the Petitioner hath exercised the Trade of a Distiller for many Years last past, during which Time he hath been convicted of divers Practices to the Prejudice of the Revenue; That 'till about two Years past, he followed his Trade in his own Name, and built one entire Distilling House, or Room in Cow-Cross, the which he entred in his own Name, where he used to distill from Malt Wash and Melasses Wash.

That the Duty of Low Wines from Melasses, and other Foreign Materials, being four Pence a Gallon, and from Malt but one Penny, Distillers who distill from each of those Materials in the same Distilling-House, do frequently blend those Materials together,

ther, for improving their Malt Spirits, and pretend their Low Wines were always drawn intirely from Malt Wash; which Practice tends much to the Diminution of the Revenue.

By the Act of 7th. William III. Distillers of Low Wines from Corn are prohibited, under a Penalty, from preparing, or having any Wash from Melasses, or other Materials, till they have drawn off their Malt Wash, which Act we put in Execution against the Petitioner. Whereupon the Petitioner contriving how to evade this Law, made two Doors into this one Distilling Room, and two Passages or Ways to it, and set up a Partition of Boards in it, to divide one Part from the other.

The one Part he entred in the Name of one Davis his Servant, as a distilling House from Foreign Materials, and the other in the Name of Esther Fuller, his Daughte, then about 12 Tears of Age, as a Distiller from Malt, thereby intending to keep Foreign Wash in one Part, and Malt Wash at the same Time undistilled in the other. He also caused a Door to be made in the Partition, whereby there was as great a Communication between the two Parts of the Room (for committing of Frauds) after the Partition was set up as before. About April last, another Entry was made in the Excise Office, in the Name of Millicent Fuller, another of his Daughters, about 13 Tears of Age, of that Part of the Distillery, that before was in the Name of Davis.

Matters thus standing, the Petitioner calls himself a Gentleman, and pretends not to be a Distiller, but to have left off the Trade: Tho' we are satisfied, he carries on the Trade now as much as ever, under the Covert Names of his two Daughters, whereby the Fraud within mention'd may be continued, and the Act evaded.

Whereupon we thought it our Duty not to be imposed on by such Practices, and therefore order'd our Cashire to take no Money for Duty of Excise, in the Name of these two Daughters; And the Petitioner refusing to pay the Duty in his own Name, we issued out Warrants to seize his Goods, for the Duty owing, the which hath been accordingly executed, and the Petitioner hath brought Actions against our Officers for so doing.

Upon the Circumstances of the Case aforesaid, and the Consideration that the Petitioners two Daughters are Infants, and th-re-

by incapable of making binding Contracts for the buying or selling of Goods in Trade, or exercising the Trade of a Distiller, we are humbly of Opinion, that the Practice above ought not to be continued, for if it be, the Petitioner will have an Opportunity of defrauding her Majesty in the Revenue of Excise, which Opportunity we have Reason to believe the Petitioner will not be able to resist.

All which, nevertheless, we humbly submit to your Lordship's great Wisdom.

Excise-Office.
Dec. 15th. 1705.

Foot. Onslow.
William Strong.
George Townesend.
Philip Ryley.

Edward Noel.
J. Boys.
Marm. Wyvil.

A full Answer to these Pretences would in my Opinion so much expose the Com—oners and their Practices, that I am loth to enter upon it; but 'tis impossible to forbear a few just Remarks upon the Allegations in it, and the plain For—y of their Reasons.

As First, That Mr. Fuller had been often convicted of Frauds in the Excise.—Whereas, 1st. If he had, that was far from being a Reason why he should not leave off his Trade, or give his Estate to his Children. 2dly. Tis not true in Fact, save that once they put him to the Charge of 400 l. and he pay'd it, for Breach of a Law, *the very next Day after it had pass'd the Royal Assent*, and the Officers had given any new Regulation thereupon, as they ought to have done, and this above Seven Years ago. Whereas Mr. Fuller's endeavouring not to commit Frauds, but to prevent them, and thereby render the Number and Abuses of the Officers useless, has been (as he supposes) his Crime, he having lately before this obtain'd the Adjustment, and settling the Duty on Melasses Spirits to a Certainty, and now attempted the like on Malted Corn.

That he built a Room, AS THEY CALL IT, and then partition'd it off with a Communication in the Partition whereby

whereby Frauds are easy to be committed, these are such Shifts and Subterfuges, that no Men, *whose Cause had been clear*, would have stoop'd to; since a Survey of the Place would have detected them, and have expos'd the Insinuation; let us therefore a little examine things, for the real Matter of Fact is thus.

The Distil Houses here mention'd are 40 Yards asunder, the whole Building taking up above half an Acre of Ground, and has been in two distinct Distilling-Houses for above Fifteen Years past; what was built for a Melasses House was built by Mrs. *Esther Fuller*, since Mr. *Fuller* parted with his Property in it.

As to blending Melasses with their Malt Wash, in order to commit Frauds, 'tis such an Absurdity, that either my Lord Treasurer ought to resent their imposing upon him, and punish them accordingly, or they ought to be pity'd for their Weakness, that are impos'd upon by their own Officers, knowing no better.

The Law against one Distiller working two Houses was to prevent charging the Spirits drawn from Melasses, as Spirits drawn from Malted Corn; and all the Distillers in *London* will agree, that if they had full License to blend the Materials together, as Melasses and Malt Wash, and pay no Duty at all, they would not do it; as appears by the Oaths of the most eminent Distillers in *London* on the Trial, so that this is such a weak Pretence, as very much help'd the Court to laugh, when it came to a Trial, and they could not have taken a more ready Way to expose themselves.

As to the Doors, which they call two Doors into this one Distilling Room, their own Books will contradict them in calling it *one Room*, they having receiv'd 1500. *l.* of them for Duty as two several Distilling Houses in Two distinct Proprietors; and 'till they found Occasion, as they thought, to pinch Mr. *Fuller*, they never suggested it otherwise.

But to come to this one Room, and two Doors made by Mr. *Fuller*, The Doors have been both there, above 40 Years they are above 40 Yards asunder, and two large Dwelling-

Houses stand between the two Work-Houses, which they call one Distilling Room.

The Arguments from these Allegations are as weak as the rest, *viz.* that Frauds may be committed, *which no Body can deny*; and so they may any where, or else their Officers are but very useless People, and paid to no purpose: Had they been able to say, Frauds HAD BEEN Committed here, it had been much more to the Purpose, and had had some Shew or Colour of an Excuse from what had been said before.

The concluding Stroke is, That by the Daughters of Mr. Fuller being put into the Trade, like Frauds MAY BE Committed; and therefore they thought fit to prohibit Mr. Fuller's Daughter turning Distiller.

Had the Law thought fit to restrain Persons from being Distillers till they were of such an Age, or given the Commissioners Power to say, who shall, or shall not set up the Trade, they had some Room for this part of it; but they ought rather to have told his Lordship the whole Truth, which was that Mr. Fuller having been a busy Fellow, *as one of them stild him*, in ascertaining the Duties on Melasses, and having attempted the like on the Duties from Maltd Corn, they found it convenient to crush that pernicious Attempt, if possible, since without it *their Craft would be in Danger*, and the great Harvest their Informers made of the publick Oppressions of the Distillers be destroyed; and that therefore they had found out this Expedient by their own Authority, and absolute dispensing Power, to call these Houses Mr. Fuller's; that by that Means hooking him into intollerable Penalties, they might have secur'd him from further Attempts to their Prejudice.

This had been an honest Confession, and the true Genuine Sense of the Matter, as by the Sequel of Things too plainly appear'd.

But to go on with our History; while these Things were depending, the Parliament met, *viz.* October 23^d. and Mr.

Mr. *Fuller*, not discourag'd by all these Proceedings, and depending upon the Justice and Sincerity of his Intentions, laid the Case of the Distillers of Malted Corn before the House; and so plainly convinc'd the unbiass'd Judgment of the Nations Representatives, both of the real Advance it would be to the Queen's Revenue, and the just Reason there was to relieve the Distillers, and free them from the Tyranny of the Officers, that the Com—oners made but a faint Resistance, as being a little more afraid, though not asham'd to oppose an Offer to encrease the Revenue, than they were before.

And here, because I have often insist'd upon it in this Tract, that this is a real Proposal to encrease the Duty; and it being a little unusual and odd, that the Distillers should move to pay more than they did before; and because nothing is more convincing than Demonstration, I freely appeal to the Com—oners themselves, and fairly invite them to exhibit to the World a true State of the Product of the Tax upon Low Wines and Spirits, from Malted Corn, since the said Act was pass'd, and the Duty ascertain'd; and that *if they can* they would prove that this Clause has not encreas'd the Revenue above one third part more than it was before; and I am inform'd some of their Officers own it is encreas'd above one half.

And all this the Distillers have earnestly endeavour'd to bring upon themselves, chusing rather to pay this Money, and be at a Certainty, than to lie at the Mercy of these Com — oners, and their Informers, who before gain'd their Living by Plunderings, vexatious Suits, discretionary Charges, and innumerable Injuries, which my Respect for them only, permits me not say, they were daily upheld in and encourag'd to by their Masters.

Another Historical Example I cannot omit, which also happen'd in this Interval, and which I bring here because it is a noted Instance of the same Cause.

The next Person they singl'd out to express their Resentment on, was one Mr. *John Mackley*, an honest Distiller, just without *Aldersgate*; but who, as they understood, had been very stirring and active to procure the laying the Case of the Distillers, as aforesaid, before the Parliament.

The feeble Pretence we find made against this Gentleman was, That some body had inform'd them, that Mr. *Mackley* had brib'd one of their Officers, to omit charging him with the Duty.

Upon this, tho' there appears no *Affidavit* of the Fact, they take one of the most presumptive, as well as ignorant Steps, that ever Men in their Places attempted in this World, and so directly contrary to the known Liberty of the *English* Subject, who in no Case can be oblig'd to accuse himself, that one would have thought these Gentlemen had perfectly forgot there was any such thing in *England* as a *Magna Charta*, or that there had lately been a Revolution, and a whole Line dethron'd for breaking of it.

But who shall plead for the Com——oners, who blinded by their Revenge, and push'd headlong by their haughty Passions upon such Precipices as these, saw nothing before them of what might be the Consequence, and how they were digging the Grave of their own Authority, in their rash Prosecutions.

The first Step taken with this Gentleman therefore was very extraordinary; they exhibit a Bill in the *Exchequer* against him, by which he is required *Upon his Oath to set forth what Quantity of Low Wines and Spirits he had ever made since he was a Trader, and had not paid Duty for*; or in plainer *English*, Mr. *Mackley* was oblig'd to turn Evidence and Informer against Mr. *Mackley*, and accuse him to the Excise-men, if ever he had defrauded the Queen of the Duty on a Gallon of Spirit; and consequently to convict himself, and lay himself at the Mercy of the Com——oners.

Mr. *Mackley*, finding himself thus oppress'd, apply'd himself likewise, as Mr. *Fuller* had done before him, to my Lord Treasurer, in the following Petition.

To

To the Right Honourable Sidney, Lord
Godolphin, Lord High Treasurer of
ENGLAND.

*The Humble Petition of John Mackley,
Distiller of Malted Corn.*

Sheweth,

THAT your Petitioner is a Distiller, and hath paid the Duty of Excise, according to the Rate of Proportion adjusted by the Commissioners of Excise, and the same hath been answered and paid at the Office of Excise accordingly; notwithstanding which a Bill in the Exchequer is exhibited against your Petitioner, to set forth divers Matters therein contained, relating to the Revenue of Excise, of which your Petitioner is not capable to give Answer; and prays, That your Lordship will be pleas'd to hear your Petitioner and his Council thereupon: And your Petitioner shall ever pray, &c.

Upon this Petition the following Reference to the Commissioners was obtain'd of Course.

Whitehall, Treasury-Chambers, Dec. 4. 1705.

THE Right Honourable the Treasurer of England is pleas'd to refer this Petition to the Commissioners, for managing Her Majesty's Revenues of Excise, who are to consider the same, and certify his Lordship a true State of the Petitioner's Case, with their Opinion what is fit to be done therein.

William Lowndes.

Upon this Reference of my Lord Treasurer's, the Commissioners (it being then Sessions time at the Old Bailey) send Mr.
B—strode

B—strode their Sollicitor, with a Bill of Indictment against Mr. John Mackley, who so managed and solicited the Matter before the Grand Jury, that they were prevail'd upon to find the Bill; upon which a Warrant was issued out to take him into Custody, and then the Com—oners make this following Report to my Lord Treasurer.

To the Right Honourable Sidney, Lord Godolphin, Lord High Treasurer of England.

May it please your Lordship,

IN Obedience to your Lordship's Order of the 4th of December Instant, signified to us by Mr. Lowndes, to consider of the Petition of John Mackley, Distiller, hereunto annexed, and to certify to your Lordship a true State of the Matter thereof, with our Opinion what is fit to be done therein.

We do humbly certify, That having lately discovered that the Petitioner hath corrupted one James Dodd, one of our Officers of Excise, by giving him divers Sums of Money, as a Bribe, to omit charging him with the Duty of Excise for several Quantities of Low Wines and Spirits, made by the Petitioner, We thereupon discharged the said Officer, put his Bond in Suit, and caused both him and the Petitioner to be indicted for the same at the Old Bailey, where the Bills of Indictment were last Sessions found against them both by the Grand Jury, and the Defendant was thereupon taken up, and hath given Security to try the Indictment next Sessions. Tho' Dodd keeps out of the way; but that Indictment being only intended as a Punishment of the Petitioner and Officer, and to deter others from the like Practice, we thought it our Duty to urge the Petitioner upon his Oath, touching what Duties of Excise for Low Wines, and Spirits he was in Arrears, and hath not paid for; to the end the same may be answered, to Her Majesty. And therefore ordered him, amongst others, to be inserted in a General Bill in Equity, to discover upon his Oath

what Money he owed for the Duty of Excise on Low Wines and Spirits, wherein all Penalties are waved.

The Petitioner was thereupon served with a Subpoena, returnable last Michaelmas Term; to which Bill the Petitioner hath appeared, and is to give his Answer before next Term.

Now whereas the Petitioner alleges, That he cannot answer the Matters charged upon him in the said Bill, We are humbly of Opinion, That he, and all Distillers, keep an Account of what Low Wines and Spirits they make, and that they have Receipts for what they pay Duty for; so that we suppose he is rather unwilling than unable to make such Discovery upon Oath. Knowing that if he discovers that he hath made more Low Wines or Spirits, than he hath paid Duty for, he lies liable to the Payment; and if his Answer should be false, Dodd, whom he corrupted, is liable to detect him.

Upon Consideration of the Premises, we are humbly of Opinion, That he ought to put in his Answer, and pay Her Majesty all the Arrears he owes for the Duty of Low Wines and Spirits.

All which, nevertheless, we submit to your Lordship's great Wisdom.

Decemb. 17th, 1705.

And under this Report, is minuted from the Treasury-Chambers, of December 17th, 1705. these Words.

MY LORD CONCURS WITH THE COMMISSIONERS.

Thus stood Mr. Mackley's Case, when the Time for Trial upon their Indictment drew near, in which the personal Malice of the Prosecution is very remarkable.

It had been easy for the Commissioners to have preferred their Indictment in the *Queen's Bench*, or any other Court, but they choose to bring it before the Commission of Oyer and Terminer, that they might bring Mr. Mackley upon the Stage.

Stage as a Criminal, and try him in open Court among Felons and Murtherers, where some of the People merit much more to have stood.

In this Case the Bill being found, Mr *Mackley* mov'd for a *Certiorari* to remove it to a Superior Court; but Mr *B—strode*, the Sollicitor, by misrepresenting it to the Judges, prevented it, and it was denied him, unless the Com—oners would consent to it.

Upon which Mr. *Mackley*, who was something concern'd to be in such a Place, address himself in a very humble manner to the Com——oners to admit him to remove it; in Return to which, after making him wait an Hour for an Answer, they never vouchsaf'd to call him in, but sent him out a Message, that he must prepare for his Tryal at the *Old Baley*, and no where else, or to that Effect.

This is the Treatment the Queen's Subjects meet with from these People; and this is their Behavior to Men who help pay the Taxes they live by; and who, their Commissions excepted, are their Superiours, both in Character and Estates.

If such Dealing is allow'd in a free Nation, where Justice and Right is fix'd by Law, and every Subject ought to enjoy his Liberty and Property without Molestation, the Revolution has been made in vain; and we are yet at a greater Distance, than we imagine, from what we have so long sought for, and paid so much for.

To me, it seems very strange, these Gentlemen should be so ignorant of our present Constitution, as to think Men dare not see them at a Court of Justice; or that the Queens Courts were not open to all her Subjects, as well as to them. The Folly and Deficiency of their Cause they could not but know; and I doubt not, they must, had they considered, have known what would have been the Issue: But 'tis manifest, they thought to have carried all things by Figure and Power; and that Mr. *Mackley* would have been run down by their Authority, without Regard to the Justice and the Merits of the Case.

But

Now let us come to the Charge, for which this Gentleman was thus handled.

The INDICTMENT *against* Mr. Mackley.

THE Jury for the Queen, upon their Oath present, That *James Dodd*, late of *London* Gentleman, the 2d of *December*, in the 3d Year of the Reign of our Queen, at *London* aforesaid (to wit) in the Parish of *St. Botolph Aldersgate*, in the Ward of *Aldersgate*, and long before then, and for the Space of a Year afterward, was one of the Officers of the Queen's Excise (to wit) a Gauger within the Parish and Ward aforesaid, and that during his Continuance in the said Office, ought to Gauge all Malt-Wash; prepared for making of Low Wines, by one *John Mackley*, of the Parish and Ward aforesaid, a Common Distiller of Spirits and Low Wines for Sale, and by him then extracted and Distilled from Malt-Wash; as also Spirits Made and Extracted from the said Low Wines, and sold by the said *John Mackley*, in the Parish and Ward aforesaid, and to return a true Account of the same, being appointed Officer for that purpose, according to the Form of the Statute in that Case Made and Provided; and that afterwards, (to wit) the same Day, Year Time, and Place, the said *James Dodd* and *John Mackley*, then, and long before, and for the Space of a Year afterwards, conspir'd and agreed together, to defraud the Queen of the Duty upon Low Wines, and other Spirits, and so to heap up Money for their own Use; which Agreement was made between the said *James Dodd* and *John Mackley*: And the said *James Dodd* neglected to return, as he ought to have done to the Office appointed, an Account of a certain Quantity of Low Wins and Spirits, by the said *John Mackley* Extracted and Distilled from Malt-Wash: And that the said *James Dodd* had receiv'd for such

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Omission,

‘ Omission, a great Sum of Money, (to wit) Two Pounds,
 ‘ Twelve Shillings, to his own Use from the said *John Mack-*
 ‘ *ley*: And that the said *James Dodd* afterwards (to wit)
 ‘ the same Day, Year, Time and Place, contrary to the
 ‘ Trust in him reposed, and to his Duty in the said Office,
 ‘ intending to defraud the said Queen of the Excise Duty, on
 ‘ Account of the several Quantities of Low Wines from
 ‘ Malt wash (to wit) three hundred Gallons of Low Wines,
 ‘ then, and there, by the said *John Mackley*, of the said
 ‘ Malt wash Distilled, and of several Quantities of the said
 ‘ Low Wines, to wit, 150 Gallons of Spirits, then and
 ‘ there by him Distilled and So’d, or any part thereof, with
 ‘ several Quantities of Low Wines, and other Spirits, the
 ‘ said *James Dodd* had Notice thereof to any Officer of Ex-
 ‘ cise, or any other Person authoriz’d, then, or at any other
 ‘ Time, returned as he ought; but contrary to his Duty,
 ‘ in his said Office, fraudulently and by Contrivance of the
 ‘ said *Mackley*, then neglected and omitted the doing the
 ‘ same. And the Jury do further present, That the said
 ‘ *John Mackley* paid the said *James Dodd* for such Omissions,
 ‘ Two Pounds, Twelve Shillings, (to wit) the same Day,
 ‘ Time and Place; and the said *James* accepted and convert-
 ‘ ed the same to his own Use, to the Damage of the Queen,
 ‘ and her Excise, and an ill Example to other Delinquents,
 ‘ and contrary to the Peace of the said Queen, Her Crown
 ‘ and Dignities——

Now had this Fact been true, yet if there is a particular
 Law of Excise, *That whoever bribes an Officer, shall forfeit 10l.*
for every such Offence, prov’d by two credible Witnesses——
 What need then was here for an Indictment at the Old-
 Bailey, but meerly to harrass and expose the Person of Mr.
Mackley?

Another Clause in a late Act of Parliament, says ex-
 pressly, *No Brewer or Distiller shall be inform’d against, or*
call’d to an Account for any Offence whatsoever, against the
Laws of Excise, if the Prosecution be not begun in three
Months;

Months; and 'tis plain this lay unpresented for Twelve Months, viz. from the 2^d of December, 1704. to the 12th of December, 1705.

Well after all this Malice, What shall we say for our Com—oners now? When at the Court, they had Indicted and persued this Gentleman with so much Fury, and could not make out the Fact, could not prove so much as a Similitude of it; nor would their own Informer say there was any such Thing as a Bribe given, only 2 *l.* 12. *od.* paid the Officer for so many low Wines and Spirits, as the Duty of which came to 2 *l.* 10. *s.* 0. *d.* no more, nor less. When Folks bribe Men, 'tis to get by them; but never was such a b'ind Indictment laid where the Crime was a Bribe, to lose 2 *s.* by the Bargain, giving 2 *l.* 12. *s.* Bribe, for 2 *l.* 10. *s.* Duty; and thus they lost the Cause, and Mr. Mackley was fairly acquitted.

And now, what Satisfaction is due to honest Men, who, in the fair and just Pursuit of their lawful Employments, are thus harass'd on pretence of doing a Duty to the Queen? who, all the World knows, is far from desiring the least Injury, or Vexation, should be offer'd to Her People, but that all Her Taxes should be levy'd with Justice, Moderation, and all possible Ease to Her Subjects.

This is one Disgrace, these Gentlemen-Excise Men have met with: Another is at hand: For the Term being come, and Matters prepar'd for a full Tryal between Mrs. *Esther Fuller*, and the Officers that seiz'd her Melasses, the Defendants mov'd for a special Jury of Gentlemen.

It was very unhappy for these People; that like the Unfortunate, *Every Step they take, helps forward their Disaster*; here, every Step they took, was against themselves: For Mrs. *Fuller*, whose Case was honest and fair, desir'd nothing but a Jury of such Men, from whom she might expect a fair Judgment.

Upon a full Hearing of the Cause, the Jury immediately brought in their Verdict for the *Plaintiff*, and awarded her to be paid the full Sum of 92 *l.* for the Melasses, and Costs

of Suit, to the unspeakable Shame and Mortification of the Com—oners, and their *Band of Pensioners*, the Caugers, who are now forc'd to refund, pay Damages, and I know not what; and their Officer, that design'd to buy him a Coach out of Mr. *Fuller's* Estate, may, if he lives to go on, have the Misfortune, to walk afoot to Goal.

It would be a needless Digression, to enter here into the particular Arguments made use of on both sides, in the respective Tryals: 'Tis enough to inform the Reader, that in either Tryal, the Council for the Com—oners had so little to say, such weak and absurd Allegations, and such slender Proof of the Matters of Fact, that all People wondred, their Discretion should fail them so much, to bring such ridiculous Causes to a Tryal: The Juries therefore, in both Cases, gave it against them, and no Man could have desir'd to see them more expos'd.

After the Mortification of the last noted Tryal, they took another Step, which evidently prov'd the Grounds they go upon in all their Prosecutions; and how they presume upon the Advantages of making Tryals Expensive; and that Tradesmen will rather bear their Oppressions, than suffer the Charges of contending with them; the Tradesmen bearing their private Loss, and these pursuing them at the publick Expence.

That this was in their Aim, seems very plain, by their moving for a new Tryal at Bar.— Upon the Presumption as is suppos'd Mr. *Fuller* would rather comply, than be at the Charge of such Tryal, which would cost about 150 *l.* But here they were baulk'd too, and as soon as ever they were inform'd, that Mrs. *Fuller* would see them there, and stand it, they wav'd that Advantage, and submitted.

Their Mortification was yet greater, when on their Motion for a new Trial: Mr. *Fuller*, by his Council, objected, That tho' Mrs. *Fuller* was willing to have her Case try'd as often as they thought fit, yet as the Decision of this Case, was a Determination of Mr. *Fuller's* Property, and which had at once acquitted him of about 36000 *l.* Forfeitures, to bring it
to

to a new Hearing, would be a second Trial of that Property, which was contrary to Law, to have him to be put in Jeopardy twice, for the same thing; that therefore they mov'd, if Mrs. Fuller did consent to a new Hearing, the Com——oners might be oblig'd to wave their Pretence of Forfeitures on Mr. Fuller, his Property having been already determin'd by Law, at the last Trial.

This hamper'd them excreably, being loath to quit Mr. Fuller, whom they had devour'd in Prospect before; however, the Court found it so reasonable, that it was granted; and if they would have a new Trial, they must submit to it, which they did, and so obtain'd an Order for a Trial at Bar.

But the Day of the Trial being near, they found their Cause too bad, which 'tis plain, they knew before, and only drove things on to the last Extremity, in hopes of frightening the Plaintiff; but finding her resolute, and all things preparing, they beat a Parley, and their Attorney comes to Mrs. Fuller's Attorney, and tells him, he had no order to proceed to the new Trial, but that the Com——oners would wave it, and sit down by the old Verdict, and that accordingly he would tax the Costs, which was done, at 25/. 15s. 10d. In which they had more Favour than some think they merited, the Allowance to the Jury, being tax'd but as a Common Jury, tho' it was a special Jury, Empannell'd at their Motion.

I cannot but recommend here to the Publick, to consider, how in such Cases as this, this Nation is abus'd: If Com——oners, thus acting contrary to Law, pushing Families to Ruin, from private Ends, shall be able to pass the Expence of such Vexations, Illegal, and Dishonourable Prosecutions, to the Publick Account; and I humbly recommend it to Mr. Auditor of the Impress, when those Accounts come before him, who is a Person of such Justice, Moderation and Honour, that no question, he will examine the Cause of Action, before he passes the Expence to the Debt of the Crown in their Accounts.

And all this, meerly for Mr. Fuller and Mr. Mackley being instrumental, to raise the Duty to the Queen, at least one third more than it was before; for which Mr. Tow——end had the

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Mortification of a very just Reproof from the Bench at the Old Bailey; at which, had he not been past ~~being~~, he ought to have shewn more Sense of Guilt than Mr. Mackley, who then stood at the Bar on his Trial, as if he had been a Malefactor.

It may not be amiss, and perhaps a little diverting here, to note, how unhappily these Gentlemen were further mortify'd in the Payment of this Money, which perhaps may serve to discover how humble some Men will be, when they are duly handled, who are unsufferably insolent to those that submit to them.

When the Costs being tax'd, there remain'd nothing but the Payment: Mrs. Fuller's Attorney was acquainted, that the Money was ready at the Office, and he might send for it when he pleas'd; but Mr. Ashton, the Attorney, knowing well enough that it was their Business to pay it, as in all such Cases is the known Practice; gave for Answer, That he expected the Money should be carry'd to Mrs. Fuller, his Client, and paid there; that when they thought the Law of their side, they made no Scruple to send to her House, and plunder her of her Goods; and as the Law was now on her side, and had order'd the Thief to restore what he had stol'n, she expected they should come and leave it where they found it, or to that Effect.

This was very mortifying, and Mr. Ashton was then desir'd privately to fetch the Money, for that it was a Dishonour to the Com—oners to bring them so low; tho' I cannot but think, he that stoops to steal ought to be made to stoop to Punishment; and this was manifestly not much better.

The Attorney being still faithful to his Client, refused to go to the Office for the Money, and sent them word, in the mean time, That if the Money was not paid, he must proceed: then the Money was sent to their own Attorney's Chamber in the Temple, and Mrs. Fuller's Attorney was desir'd to come and receive it there, which he still refused—— At last they were forc'd to stoop to the Necessity the Law had brought them to, and carry'd the Money to Mrs. Fuller's Comprising House—

But that, if possible, they might hook Mr. Fuller into some Snare or other, they rais'd a sort of a new Difficulty in the Payment;

Payment; and that was, pretending Mr. *Fuller* had a Note under some of their Officer's Hands, relating to some Arrears, or Overplus, they hardly knew what; but they must have this Note deliver'd up—on Payment of this Money.

They were ask'd, If it had any Relation to this Cause? Or if a Note in the Hands of Mr. *John Fuller*, could be any thing to Mrs. *Hester Fuller*? And Mrs. *Fuller* told them, she knew nothing of her Father's Business, nor would she concern this Affair with it; that she had no Business with her Father, in Matters of Trade, nor her Father with her, but if they would pay the Money, she was ready to receive it; if not, they might go about their Business; which they did to their Cost, or to the Queen's Cost; for in the publick Revenue, it seems, they make the Queen pay for all their Mistakes.

Mrs. *Fuller's* Attorney being as vigilant as they upon this Delay, caused a new Prosecution to be commenc'd that very Evening; and bringing an Action upon the former Judgment, in the Morning, two of the Defendants were taken up.

This was a new Surprize to them, for they supposing Mrs. *Fuller* would take out Execution only, and so the matter would terminate upon the Seizure of Goods, or Persons. They now found a multiplying Charge coming on, which wiser Heads than theirs could not see the End of.

This Alarm brought Mr. *B—strode* with the Money to Mrs. *Hester Fuller's* Counting-House a second time; where he was pleas'd to pay it without the Bill he had talk'd of before, and about Seven Pounds for fresh Charges.

How they will state these Expences also, and to whose account they shall pass in their general Cash, I leave to Mr. Auditor to examine, who no doubt will do Her Majesty Justice in such things as these.

Thus I think 'tis made very plain what they must expect who attempt, tho' in a legal and fair method, even by Parliament, to restrain the Extortions of Men of power: Nay, tho' they are willing to pay greater Taxes for the purchase of the just Liberties they demanded.

For tho' this is a Victory, and Mrs. *Fuller* is fully recompensed by the Law, yet as the Victor always buys his Conquest with a Loss, so the Costs given Mrs. *Fuller*, were far short of her Expence, for she having expended 54*l.* 7*s.* 5*d.* in the Prosecution; and the Costs being tax'd but at 25*l.* 15*s.* 10*d.* she lost 28*l.* 11*s.* 7*d.* by them, besides putting her to great Trouble and Hindrances in her Business.

And here, before I go on with the Historical Collection of Oppressions, I must note a few Things which relate to the past Affair, and which serve to explain some parts of it.

1. The Reader is desir'd, to note the State of the Duty charg'd on Low Wines and Spirits before the Regulation, or ascertaining of it, and the State of it afterwards, as follows.

The Duty, as charg'd before, was one Fifth of the Wash, suppos'd to be Low Wines, and one half of the Low Wines to run into Spirits.

The Duty as now ascertain'd, is one Fourth of the Wash into Low Wines, and three Fifths of the Low Wines into Spirits: The difference to the Queen, is as follows.

Suppose the Quantity to be 600 Gallons of Wash.

The OLD CHARGE.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
600 Gallons of Wash to run $\frac{1}{5}$, is 120 Gall.			
Low Wines, at 1 <i>d.</i> per Gall. Excise, is —	0	10	0
120 Gall. Low Wines to run $\frac{1}{5}$ into Spirits, is			
60 Gall. of Spirits, at 2 <i>d.</i> per Gall. Excise, is	0	10	0
Neat Duty is—	0	10	0

The NEW CHARGE.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
600 Gallons of Wash to run $\frac{1}{4}$, is 150 Gall.			
of Low Wines, at 1 <i>d.</i> per Gall. Excise, is —	0	15	0
			150 Gall.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
150 Gall. of Low Wines to run $\frac{1}{2}$ in Spirits, is }	0	15	0
90 Gall. of Spirits, at 2 <i>d.</i> per Gall. Excise, is }			
Neat Duty is—	1	7	6
Gain to the Queen, by the <i>New Charge</i> , in }	0	7	6
every 20 <i>s.</i> Duty paid before —			

2. The Reader is desir'd to note, That such is the Advantage of this Alteration, from the Certainty of the Charge, and the Impossibility of Frauds on either side ; that by an Abstract obtain'd out of their own Accounts, it appears, That from the 24th of *March* last, when this Regulation took place, to the 1st of *June*, being about 10 Weeks ; the Excise for distilling of Malted Corn, within the Bills of Mortality, wanted but 13 *l.* 6 *s.* 1 *d.* of being one half as much more, as it was before.

From whence I take the Liberty to make a short Calculation, which tho' it be conjectural, perhaps may start a Question which the Com——oners will never answer.

Suppose in the Taxing the Distillers of Malted Corn for one Year, any certain Sum be named, as rais'd before this Regulation. Say it be 100000 Pound. By the Advance of 7 *s.* 6 *d.* per *l.* that Charge will now amount to three Eighths more, which is in the whole 141333 *l.* 6 *s.* 8 *d.* This is very considerable ; there being 41333 *l.* 6 *s.* 8 *d.* gain'd to the Queen in every 100000 Excise.

But what shall we say to the Mystery of Iniquity that follows, if it be true, *that it should* advance three Eighths ? *But really does* bring in a half, within a Trifle, more than it was before charg'd, as is apparent ; the Queen is still a great Gainer ; but who were the Knaves or Fools before ? This is the Question I would have the Com——oners answer.

Certainly there must be a plain Fraud somewhere ; for that here appears by the new Regulation, the advanc'd Charge raises 41333 *l.* 6 *s.* 8 *d.* and the ascertaining the Quantity, raises 8666 *l.* 13 *s.* 4 *d.* more.

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Now 'tis evident, this Quantity might have been ascertain'd before ; if it was not, it must proceed from one of these Two Causes : Either the Officers, by Favour and Partiality, conniv'd at a short Charge, or the Distillers found very profitable Ways to deceive them ; if the first, they were Knaves, and cheated the Queen ; if the last, they were Fools, and did not understand their Business.

It seems to me, it cannot be the last ; for if the Distillers were thus too cunning for the Officers, so much to their Advantage, why should they be so earnest for the Alteration, and willing to pay 7 s. 6 d. in every 20 s. more than they did before, rather than go without it.

It is not probable, they would stir for a Regulation, who compleatly saved 9 s. in every 20 s. before ; this would be, to take the Cap from the Officers, and give it to the Distillers with a witness ; they would merit, to have a Commission of Lunacy sit upon them, rather than Oyer and Terminer ; and the Excise men would have more reason to laugh at them for Fools, than they have had yet, or are ever like to have.

It must then be the first ; that the Officers, and some of the Distillers (for which no question the first have been well paid) have always conniv'd at these Frauds ; and the Government has suffer'd, between them, about 20000 l. in every 200000 l. Duty that has been collected ; and let the Com——oners come off of this if they can.

This is the Fraud Mr. Fuller has often attempted to detect, or at least, to prevent : If it be ask'd, why should a Distiller go about it ? The Answer is plain ; A fair Trader suffers in nothing more, than by the Disadvantages he lies under, from the Clandestine Trade of his Neighbour ; and if another can under-sell him, by a Trick in the Excise, he grows rich by the Fraud, and the fair Trader works for nothing : That there was such Inequality in the Trade, was too plain to be doubted, tho' not easy to be detected ; and nothing could put a stop to the Mischief, like thus ascertaining the Lengths of the Wash.

This Mr. Fuller therefore attempted almost 3 Years since, viz. 1702. And propos'd to one Drysdell then General Manager

ger under the Com—oners, upon which he was reduced to a common Officer and sent down to *Bristol*, so Mr. *Fuller* could not compass it then ; but having, with Mr. *Mackley* and others, with great Expence and Charge, brought it to pass now, the Fury of the Com—oners has been in all the past Particulars bent ; first, to oppose it ; and next, to ruin them for attempting it ; but Truth and Justice has prevail'd ; and there is no doubt, but if others are equally encourag'd, to make known their Grievances, the Tyranny of the Com—oners, will be absolutely reduc'd, the Queen have Her Taxes peaceably paid, exactly collected, and the Subject freed from a Sett of Men, who have hitherto liv'd upon the Loss of Families, and rejoyc'd over the Calamities of those they have most unjustly ruin'd.

And that this Charge may not be counted too heavy, and this Book be branded with the same Injustice it is wrote to expose, I shall descend to Particulars, and give you a few out of the infinite Crowd of Excesses, they have been guilty of.

'Tis true, that the Laws of Excise are very severe; and without doubt 'tis necessary, that when Taxes are charged on the Subject, Methods ought to be taken, to secure the Payment to the Government : And this is both just to the Government, and to one another; that the Equality of Taxes may be regulated, since what is deficient in one, is always made good upon the whole Nation.

But this Severity of the Laws, does no where require cruel and rigorous Exactions ; barbarous, destructive, and furious falling upon Men and Families : Of which, the following is an Instance, all good Men must read with Abhorrence.

About the Year there was an honest, and very industrious Man, a Distiller, by Name *William Stanley*, a Quaker, who liv'd in *Wapping* and carry'd on his Trade with a tolerable Prospect ; but having several Losses, and a large Family, did not make so current Payment as the Com—oners requir'd, being in Arrears 146 *l.* 12 *s.*

This Man had order'd some new Backs to be made, and set up in his Work-house, and they were then finishing, but not quite done; the *Back-maker* having at least a Week's Work to do on them, to make them fit for Use.

The Distiller thought it was soon enough to enter these Backs at the Office, when they should be finish'd and fit for Use; and in the mean time, they were so far from being offer'd to be conceal'd, that the Work-men were publickly at Work on them, and the Officers every day saw them in the House.

But the Officer, *Benj. Biss* by Name, staying as long, till he thought the Pretence would bear, Informs against this Man, for Erecting these new Backs without entring them; and the Com——oners concurring with the Officers, condemns the poor Man to pay 80*l.* for this pretended Fraud.

This added to his former Debt, made it 226*l.* 12*s.* which the poor Man being unable to pay so soon as they requir'd it, they fall upon him with most unsufferable and unparallel'd Fury.

His *Still-House*, which cost him above 500*l.* to Erect, they pull'd all to pieces, tore up his Stills and Backs, and appraising them after their own manner: and at their absolute Pleasure, sold them most unreasonably below the real Value.

They sold three Stills, with Worms and Tubs, for 120*l.* and the poor Man makes it appear, that one of those Stills, by the weight of the Copper, came to 102*l.* and cost him so much at second hand, but a few Months before being bought of one of the Com——oners themselves at that Price.

The Backs, and all the Wooden Work, which cost him above 150*l.* and which was all in good Condition, fit for the Trade, they sold for 3*l.* 19*s.* 6*d.* or thereabouts.

They sold as much Spirits for 7*l.* 0*s.* 0*d.* as they themselves had charg'd the poor Man with 18*l.* Duty to the King.

And thus the poor Man and his Family was entirely ruin'd, and turn'd out of Doors: And notwithstanding all this Havock, and the Destruction they made of his Goods, they sold them for 6*l.* 11*s.* 6*d.* more than they demanded, which yet they never would return to the poor Man, to this day, tho' he has earnestly solicited them for it; and is reduc'd so low, that
he

he has often wanted such a small Sum for Bread for his Family, and now works in a *Still-house* for weekly Wages to subsist his Children ! of whom, if Inquiry be made, I doubt not but the Reader may be inform'd that I have related the Story, rather in the Com——one's Favour, than otherwise, being resolv'd to do them Justice, even in the worst Accounts I shall give of their Behaviour.

This Story shewn the poor Man has since been upon a Sick Bed, and just at the point of Death, he desired to have a Pen and Ink, and wrote under it as well as he was able, *This is all true* ; and sign'd it, *William Stanley*. And said much more was true, but he was not in a Condition to look out his Papers.

To make good the Charge against them, in the beginning of this Tract, of denying Justice to the Distillers, when they complain of the Injury of their Officers, take the following short Account.

MR. Mathew ~~Do~~ Distiller in *White Friars*, had a false Charge made upon him ; by which the Reader may please to understand, he was charg'd by the Duty for more Wash than he had in his Vessels ; but the Officer being peremptory in his Charge, the Distiller complain'd to the Commissioners, as the Law in that Case directs.

Proby

When the *Case* came before the Com——oners, contrary to all Courts of Justice in the World, which generally hear the Complainant first, and then the Defendant, they to be particular as well as partial, taking the *Case* from the first Complaint of the Distiller ; calls up the Officer, and orders him to give an Account of the Fact ; having heard him only, they immediately gave their Judgment against the Distiller, without so much as admitting him to reply, or hearing his Evidence, and refused to swear a Servant he brought with him, to prove the Fact.

How Men can thus pervert the known and fundamental Articles of distributive Justice, I cannot imagine ; and if they expect never to give account for these Actions they must certainly

tainly live in hopes, that some time or other, Parliamentary Authority shall be suppress'd, and that Power die which has always been a Terror to the Exorbitances and Exactions of Insolent Tax-Gatherers.

It is farther remarkable in this Story, That the Distiller boldly telling them, *He would seek for Justice against these Partialities; one of the Com——oners, and the great Manager of these Injurious Proceedings, viz. Mr. T——end* turning to the Solicitor, ask'd, *If the Distiller had paid the Money for this false Charge?* To which he was answer'd, *Yes: Well, well!* says the Com——oner, *If we have but the Money, let him seek for Justice where he can, and see how he will get it again; or to that Effect.*

For Shams and trifling Pretences against Tradesmen, and for which they have been Arbitrarily Fin'd; take the following out of many more, ready to be produc'd at demand.

MR. Feast the Brewer, at the *Peacock* in *White-Cross-street*, a Man of an unquestion'd Reputation, and every way superiour to the best of these Commissioners, both in Character and Estate; being allowed by all that have Judgment in the thing, to be the greatest Brewer in *England*, and I suppose in the World; and who I believe (*speaking by guess*) has in his Time, paid 200000 *l.* Excise to the Crown; some say much more.

This Gentleman keeping an Engine or two always in his Yard, to be ready, in case any Accident of Fire should happen, had order'd his Men (as it is very necessary to do, and as they used to do about once a Month, to try the Engine, that they might be satisfy'd it was in order.

Upon this, the Mob coming into the Yard to see it Play, it happen'd, that among the Crowd, the Excise man was, as he says, coming to his Business; this the Servants could not, and offer'd to make Affidavit, they did not see: In playing the Engine, the Servant turning the Spout among the Crowd, (as in Sport is frequently done) he chanc'd to wash *HIS HONOUR*, the

the Excise-man; — who appear'd exceedingly affronted at the Indignity offer'd to his Quality: And tho' the Servants ask'd his Pardon, and profess'd they did not see him, and the Master not present, yet he could by no means be appeas'd; but goes the next day to the Office, makes his Complaint to the Com — oners, and brings an Information against Mr. *Feast*, for his Servant's obstructing him in the Execution of his Office; the Penalty for which, by Act of Parliament, is 20 *l*.

This came to Tryal before the Com — oners; who, notwithstanding the Circumstances were prov'd as above, gave Judgment against Mr. *Feast* for 20 *l*. and upon his Appeal, the Com — oners of Appeal confirm'd it, and he paid 20 *l*. for wetting the sacred Coat of a Gauger; that had he design'd nothing but his Business, might have gone two or three other ways into the Brew-house, and not have come in reach of the Engine.

ONE Mr. *Henry Hall*, a Syder-Maker, had a Ware-House some distance from his Dwelling-House; and having some Business at his Ware-House, he found the Excise-man knocking at the Door; but his Servant, whose Business was in the said Ware-house, was gone out, and the Door lock'd.

The Excise-man demanded Entrance, and Mr. *Hall* desiring him to stay till he could find the Man, who he thought had been at the Ware-house; the Excise-man seem'd uneasy, at which Mr. *Hall* order'd another of his Servants, who came with him immediately to break open the Door, that the Excise-man should have no Pretence upon him; which the Excise-man perceiving, and that if the Door was open'd, he should lose the Opportunity of informing, immediately offer'd to go away, and would not stay to see the Door open'd, but Mr. *Hall* immediately opening the Door, he was let into the House, yet he lays an Information for 15 *l*. for being denied Entrance; on which Information the Com — oners gave Judgment; and the Court of Appeals, to whom Mr. *Hall* had recourse, confirm'd the said Judgment.

'Tis

'Tis observable in this Caase, That when the Com—oners of Appeal had heard Mr. *Hall's* Case, they ordered all People to withdraw; which was supposed was to consult together: But Mr. *Hall's* Son remaining conceal'd in the Room, to his surprise found they consulted the Com——oners of Excise only; which he is ready to attest. How this consists with the Impartiality of a Court of Appeal, is left to all Men to consider.

Another Prank like this, was play'd by an Excise man, with Mr. *Pendril*, a Distiller in *Holbourn*. The Excise man, in the dead of the Night, when Mr. *Pendril* was in Bed and asleep (taking a Constable from the Watch) comes to his Door and not offering to awake Mr. *Pendril*, or any of his Family, demands Entrance, which Mr. *Pendril* (as I know not how he should) being asleep, took no notice of.

At the same time the Officer pretended the Chimney smoak'd, and call'd the Watch man to take notice of it, which he did; but declared, he could not perceive it to smoak.

Notwithstanding this, away goes he, lays an Information against Mr. *Pendril*; and upon the Tryal, the Officer swore the Chimney did smoak; the Constable swore it did not; no Proof was made, that Mr. *Pendril*, or his Servants, were at work, as indeed they were not, but all in Bed; yet the Com——oners gave Judgment gainst him for 15 *l.* alledging by their Sollicitor, *That they ought to keep a Servant always sitting up, to let in the Excise man, whenever he thought fit to come.*

It would be a History too long for any Man's Reading, to set down all the barbarous Treatment the Queen's Subjects daily meet with from these Gentlemen Excise men; their Arbitrary Judgments, Clandestine Methods of surprizing the Innocent, and their partial and positive determining Things against Law, Reason, and apparent Testimony of Fact.

How they have determin'd the same Fact as Criminal in one, and Acquitted in another, is plain from the following Instance.

John Vanden Benden, Sweet-maker, at Dowgate, had a private Copper for making of Sweets, which he was inform'd against for making use of, without Entering at the Excise Office; and coming to a Tryal, he was acquitted; not that it was not made use of, but as not being within the Act.

Rowland Frye, Sweet-maker, in Morgans lane, Southwark, much about the same time, and for the very same individual kind of Fact, was Tryed on an Information, For making use of a private Copper for making Sweets; and the Com——oners gave Judgment against him for 50*l*.

If any Man should enquire into the Reasons of these Partialities, they must find them in the Excise Office, no Man else can resolve them.

I could go on to give Lists of some scandalous Wretches they employ in the publick Service, who are qualify'd to carry on such things as these: And here, D——r the Excise-Man, who was to keep his Coach out of Mr. Fuller's Estare, would see his Picture drawn; and the History of his being formerly turn'd out for Misdemeanors, too black to enter upon; together with his drinking King James's Health, at the same Time that he eat King William's Bread: And that being dismiss'd for such things, he was adjudg'd by Law incapable of serving the Government, but soon entertain'd again, since they could not want a Man so exquisitely qualify'd, and who study'd more the Penalties of the Excise, than the Encrease of the Revenue.

But this is a Task too dirty to rake in here, and too nauseous for the Ears of the World; 'tis enough their Nails are par'd by this Law: Authority has set Bounds to their Avarice and Cruelty in this part of the Excise, and it can no more be doubted, but if the Brewers please to apply themselves to the same Justice, and with the same Vigour, they will obtain a full Redress of their Grievances, and see the Excise-Men reduc'd to such Bounds as the Law directs, that the Tax may be paid

without Injury to the Subject; the Property of the Brewers and Distillers secur'd; and they no more, *like Sons born out of Season*, be rob'd of their known and original Priviledge as English Men, of being try'd by their Peers.

The Names of Mrs. Esther Fuller's Jury.

Benjamin Hoskins,	Nicholas Clark,	Nicholas Goodwin,
George Ford,	Henry Whichcott,	Francis Chapman,
Richard Beavoir,	Thomas Ellis,	Thomas Dodd,
Edward Anthony,	John Clare,	William Snelling.

THUS far our former Author has extended his Account of Grievances; which *reserving the Matter of Fact entire*, I have in common Decency and Civility to the Com—oners, strip'd off all the Bitterness of Expression, hard Language, and Sarcastick Reproaches, of which it was very full.

The Design of this Book is fairly and openly to represent the *Fact*, not purposely to load the Persons; 'tis to obtain Relief of the Hardships, and have the Grievances redress'd, not to rail at the Persons; nor are we out of hopes but the letting the Com—oners see a short Abstract of their own Proceedings in a true Glass, may (when they sedately reflect on them) move them to proceed by softer measures to do Justice, and restore the Methods of Excise to a Course of Equity, that there may be no more Cause of such Complaints.

I say, I am not out of hopes of it, because I have been told that the Com—oners have (since they had notice of this Publication) dealt more favourably already in some Cases; by which they do but that Justice I expected, *viz.* To acknowledge their former Severities, and lay themselves less open for the Future.

And I cannot but assure them, for their Encouragement, that this Mildness of theirs has in part been useful to them already, for that I have left out of this Account several dependent Cases equally hard and oppressive with these published,
that

that room may be left for all that Penitence and Amendment which Justice and their own Character demands at their hands.

And to prompt them to this, if they would please to accept the Hint, I would in the most Friendly manner possible, advise them to search the Long Roll of depending Causes before them, which have lain unheard several Years: And in which the Brewers and Distillers being overcharg'd by the rigour of their Officers, have enter'd their just Complaint before them; and at great Charges, and frequent tedious Attendance, have waited for Hearing, but have for several Years been delayed and denied Justice till Witnesses die, Servants remove, Particulars lie forgotten, and the Difficulties of Proof encrease so much that the Complainers are tired out and sit down by the Loss.

This Step, tho' perhaps it might a little more confirm the Truth of the Complaints now exhibited, yet it would go a great Way towards recovering that good Esteem of the Com——oners which honest Men would willingly entertain, and the Brewers and Distillers would conceive some hopes that their Oppressions might one Day cease, and they should come at last to be fairly treated, and stand upon the same Foot of Equality in Trade with other Men.

Dispatching Causes is the greatest Ornament of Justice. Speedy Redress of a Grievance doubles the Relief to the Complainer, and doubles the Reputation of their Justice who award it. There can be nothing more grievous than the lingering Expectation either of Ruin or Relief, and therefore 'tis a most Material Article in the Coronation Oath of our Sovereigns—— *Not to deny or delay Justice to any one.*

I would therefore recommend to the Com——oners to read over the following Cases. I am perswaded they must be Men of so much Reason, that upon a cool View of the Particulars, and Reflections from their own Knowledge upon the vast Roll of those omitted here, which might have been made publick, they will see great Reason to alter their Conduct, and make amends to the publick Justice, scandaliz'd by such Management, in applying themselves for the

Future with Calmness and Impartiality to make fair Traders easy, and discharge their Duty with as much ease to the Subject as Justice and the Government require, and as will consist with securing the Duty, and preventing Frauds, which is the uttermost Intents of the Law.

I shall enlarge no farther on this Head, but descend to a few Instances of Matters of Fact, being some of these many Things on which the just Uneasiness of the Brewers and Distillers are founded.

THE first Cause I shall begin this Account with, is on Mr. *Feast* and *Calvert*, Partners, the same mentioned before in the Story of the Engine.

There is a Clause in the 7th and 8th of *William III.* That the Brewer may break return'd Drink into a new Guile after the Length of the said new Guile is declared, provided it be done in the Presence of an Officer, P. 220, 221. of the small Book of Laws of the Excise.

About the 21st of *April* 1704. Mr. *Calvert* had sold three Barrels of strong Drink to a Victualler, which proving foul the Victualler return'd it, as not fit for the Tap, at least at the Price, having been charg'd 25 s. per Barrel for it.

The 4th of *May* it was brought home, and a Guile of Beer being then in the Tun, Mr. *Calvert* ordered these three Barrels to be broke into the said Guile — In Order to this, one of the Servants called Mr. *Clark*, a Gauger, or Excise man, (who was then in the Brew-House) to see it done according to the Act of Parliament.

Before it was done he gave him an Account of it, as when it was brew'd, how paid the Duty, why return'd and the like; caused him to tast it, and in short, fully satisfied him of all the Particulars; and accordingly he stood by and saw it put into the Guile, — and acknowledg'd afterward that he did so, and that it was pretty good Drink, only it was a little foul, and that he did believe it to be of a former Guile without Mixture, — which was likewise

wise fully prov'd upon Oath, at the Hearing by several Witnesses.

It would be very hard after all this, for any Man to say how Mr. *Calvert* could proceed with more Exactness, or more nicely obey the Precept of the Act of Parliament; nor can the Commissioners themselves tell us when a Man can be safe if not so, when he acts in the Presence, and by the Consent of their own Officer: Nay, and when they act agreeable to their own By-Laws too, for so this was—their Officers having always restrain'd the Brewer from breaking in any old Beer to a new Guile, 'till the length was declar'd and said it was the Commissioners Order.

Here all this was complied with, the Length declar'd, the Officer present and consenting, and yet another Officer coming into the Brew-house, unravels all this, informs against Mr. *Calvert* for a Fraud; and so is not only charg'd the Duty over again for the three Barrels, but condemn'd by the Com—oners in 5 *l.* per Barrel as an Encrease—and the Com—oners of Appeal confirm'd the Judgment, and he paid the Money.

MR. *Feast's* Copper being very large and his Mash-Tun in Proportion, the Underback (a Vessel appointed to receive the Worts from the Mash-Tun) was rather too small, and therefore Mr. *Feast* had an additional Vessel, or Back, to make use of, as they had Occasion; it stood close by the other, and so open that the Officers had for several Years both known of it, and known the Use and Reason of it.

Nor was this all, but by the Situation of the Thing, and the Nature of the Work of Mashing, or mixing the Liquor with the Goods or Malt, 'tis notorious, that it was impracticable to make that Use of it which they pretended.

It happen'd once after the Worts were both brew'd and drawn off, not only from the Mash-Tun, but from the Underbacks too, That the Servants in clearing the Mash-Tun, had thrown over some of the Grains into this Underback, whether by Accident, or for any particular Use, is not material. The

The Excise Men who upon all Occasions watch for what Depredations they can make on the Brewer, and seek, and not seldom contrive Advantages for their Purpose, quarrel at this Matter, and pretend it to be a Discovery of a private Mash-Tun.

Had it been possible to make this a Mash-Tun, or to mash in it as it stood, they might have had some Colour, or had it been a conceal'd Utenfil or Vessel which they had not seen and known the Use of, something might ha^e been, but this being all absurd and detected as above, any Man would ha^e thought himself safe.

Yet all this prov'd by undeniable Testimony, the Com—oners nevertheless gave Judgment against him for 50 l.

As this was one of their most early Oppressions and they had not given the Brewer Occasion, so it was a Novelty to them when Mr. *Feast* appeal'd— there having no Appeal been made (as I am inform'd) for 20 Years before, this being in *November 1694*.

This occasion'd that they made Mr. *Feast* attend three Times with his Council, without Regard to the Charges; and at last, having been told (as Mr. *Feast* is inform'd) that if they gave it against the Com—oners they should never be able to collect the Duty. They confirm'd the Judgment, and Mr. *Feast* paid 50 l. besides his Charges and Expences, for an open visible Underback.

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M R. *Townsend*, Brewer in *Old-street*, comes next in Order, and he having brew'd a Guile of Beer, was just going to cleanse, as they call it, ~~which is putting it into~~ the Store-House.

But the Excise man going into the Store House, where that Barrel of Beer was laid, there lay another Barrel about three quarters full of Ale, which was left of a former Brewing. He asks what it was, and was told (as it really was) 3 Firkins of Ale, left unsold of the last Guile; he agreed that it was so, and goes his Way.

Mr.

Mr. *Townsend* heard no more of him for some Time, 'till he found to his no small Surprize, he had laid an Information against him for Increase of a Barrel of Beer.

In prosecuting the Information he swears directly that it was a Barrel of strong Beer, tho' he never tasted it; being ask'd upon his Oath if he was not told by Mr. *Townsend* himself that it was Ale, he denied it; being ask'd whether he was not told it was but 3 Firkins, he denied it; and tho' he never gaug'd it, he swore it was full.

Mr. *Townsend* (as any Man would) amaz'd to find such a harden'd Wretch, produced his Servants, who severally swore the Drink in that Cask was Ale of a former Brewing, and that the Barrel was but three Parts full. But the Commissioners adhering to the Oath of this hard mouth'd Creature, against all the Witnesses Mr. *Townsend* could bring, condemn'd him in the Penalty of 5 *l.* for a Barrel of Beer Increase, and he paid it; and when Mr. *Townsend* a little mov'd at this Treatment, took the Freedom to tell them that of his own Knowledge their Officer was perjur'd; and that it was hard to take his Single Oath against so many Affidavits, offering his own to confirm them. They silenc'd him by threatening to send him to Goal for being saucy, as they thought fit to call it.

MR. *Martin* Brewer in *Westminster* thinks his Case yet severer than this. The Excise-Officers pretending they suspected some Fraud, resolv'd to watch him, and told him they would set Men in his House all Night, he told them they might do so if they pleas'd, but he must then lock them in, for his Servants could not sit up, being to work hard in the Day, and he hop'd they would not lay open his House to all Comers — However Mr. *Teeton* the Officer (the same that made Mr. *Feast* pay 20 *l.* for wetting his Excellency's Coat) plac'd two Officers in Mr. *Martin's* Brew House all Night, on a Saturday Night; Mr. *Martin's* Son set up with them 'till past Midnight to let any others in that should come

come to them, and none appear'd, and then went to Bed, not doubting but they were out of Danger of being charg'd with a Fraud, while his Servants were all asleep and the Excise-Men in the Brew-House.

About Two a Clock on Sunday Morning, as they say, (for no Body but themselves knew any Thing of it) other Officers came to the Brew-House, and demanded Entance, and pretended to be denied, tho' neither Mr. *Martin*, nor his Son, nor any of their Family were call'd to let them in.

Upon the Hearing of this Cause the Com—oners gave Judgment against Mr. *Martin* for 50 *l.* for denying Entrance to their Men, tho' Two of their Officers were at the same Time in the Brew-House, and Mr. *Martin* and all his Family asleep.

In defending himself against this bare-fac'd Cause, Mr. *Martin* (tho' himself the Looser) could not but be very merry with them, and telling their Honours of it with a little more Freedom than they approv'd, they gave him very scurrilous and unseemly Language: And when he ask'd the Com—oners by what Law they treated him thus, he was answer'd by Mr. *B—ly* (then a Com—oner) *That if they had not Law for it, they would make Laws to convict him—* And continuing to treat him with very rude Words, they told him they would take a particular Course with him; and so they did, for they order'd Mr. *Bulstrode* to draw up a Warrant to send him to *Newgate*; which he did accordingly:

But Mr. *Martin* far from being terrified with their Threatnings, told them he would give them Forty Thousand Pound Bail, and stand to the Truth of what he had said; and being thus fairly challeng'd to proceed, they thought fit to let their Warrants of Commitment drop, and contented themselves with using him very ill and getting 20 *l.* for the Absurdity of denying Entrance when they were in Possession of his House.

A Nother Instance of their Arbitrary Proceedings, and which I must confess is most prodigious in its Nature, considering under what Kind of Government we live, is the Case of Mr. Paul a Brewer in *Westminster*.

Mr. Paul had an Information laid against him for having a private Store House, the Penalty of which by the Act of Parliament is no less than 50 *l*. Mr. Paul wondring where this Store house should be, having no Room in his Brew-House but what the Officers had free Entrance into every Day, was yet more surpriz'd, when by the Information he came to understand that this Store-House was a part of the next House to his, in which an Ale-House keeper of the Neighbour hood kept his Stock of Drink.

Upon the Hearing he brings the Owner of the Beer, who fairly prov'd his Property to it, and that Mr. Paul had no Concern in nor ever had that House; that the Beer was his Store his Publick-House, and a long Variety of concurring Circumstances were brought to prove Mr. Paul had nothing to do with it.

Notwithstanding all this, they gave Judgment against him for 50 *l*. according to the Penalty for a private Store house.

It seems that after this Judgment the Com—oners themselves began to relent a little at so open an Oppression, whether it was, that they had receiv'd any particular Satisfaction that Mr. Paul was wrong'd, or whether it was, that being newly cast in the Case of Mr. Fuller's Daughter they found things began to gather about them, and the injur'd People would not long bear with their Proceedings, I do not determine; but Mr. Paul was acquainted that if he would apply himself to the Com—oners he would be ealed in the Matter.

Upon this he applied to them by Petition, and being call'd in, was told they had consider'd his Petition, and had remitted 40 *l*. of his Fine: Mr. Paul told them he thought his Case was so clear that it was impossible to prove any Fraud, and thought it was hard to be fin'd for living next Door to an Ale-House-keeper, that if he was guilty he desired no

Abatement, and if not, he thought it was hard he should be fin'd at all.

To this the Answer was very short, " The Com—oners " have been very civil to you, go about your Business, and say " ~~not one Word~~ more, for if you do you shall have it doub- " led, and pay 20 *l.* — Nay, thought Mr. *Paul* if it be " so I'll be gone, and away he went, and so paid Ten Pound for " another Mans Ware-house standing too near him.

How the Com—oners could either take the 10 *l.* or abate the 40 *l.* I am absolutely in the Dark about, and must remain so, till some nice Lawyer please to satisfy me in that Doubt, or the Com—oners please to explain their Authority in such Cases.

But now that the Complaint may not be universally understood, as if neither the Com—oners of the Excise or of Appeal, do any Man Justice. I think this Account cannot be perfect without acquainting the World ~~what~~ Sort of Justice that is, at what Expence obtain'd, and with how much Delay, and sometimes in what a different Manner: And the first Instance of this shall be in the Case of Mr. *John Kinch* Distiller, as follows.

The Officers to render themselves troublesome to the Distiller, had a Method of making a double Charge, a Charge by Gauge, and a presumptive Charge which lay in their Discretion, and gave them Room to treat Men according to the Civility they receiv'd from them. Now, tho' this is the very Case which Mr. *Fuller* has obtain'd to be rectify'd the last Session of Parliament, and their Power is at an End, yet it cannot be foreign to our Purpose, to let this Example of the Consequence of it appear.

MR. *Kinch* had been several Times over charg'd by the Officers; as particularly at one Time 221 Gall. of low Wines and 101 Gall. of Spirits, at another 141 Gall. of low Wines

Wines, and 155 Gall. of Spirits, a third 204 Gall. of low Wines, 177 Gall. of Spirits; The over charge of which was complain'd of by Mr. *Kinch* to the Com—oners, but no Hearing could be obtain'd; at last Mr. *Kinch* finding them go on to charge him, told them plainly he would not pay the over charges 'till he was heard: The Com—oners told him if he did not he should pay double Duty, but he resolv'd to stand it. When the next Months Duty was to be paid, he tendred the Money at the Office before Witnels, but they refused it, and soon summon'd him to answer an Information for double Duty.

Mr. *Kinch* appear'd with his Council, and mov'd to be heard on his own Complaint, but was refused that, but call'd to be heard to the Information; upon which they proceeded, and gave Judgment for the double Duty.

Upon this Mr. *Kinch* appeal'd, and after above 6 Months Attendance was heard: Upon hearing the Case, he cast the Com—oners as to their double Duty, having made Legal Tenders, and also was reliev'd in his Complaint of over-Charges—but desires to add this to the Remark, that his Complaint of over Charge amounted to 2 *l.* 16. and it cost him 10 *l.* in Council Fees, often attending, Law Charges &c. to obtain this Justice.

The same Mr. *Kinch* has several Complaints of like Sort, now depending for over-Charges on his Works, and has been two Years labouring to be hear'd, having so often attended with Council that it has already cost him about 7 *l.* in Charges, and at last they refused to relieve him; upon which he has again appeal'd, and this Complaint does not amount to much more than Three Pound. And this is the Nature of their doing Justice, the Expence of which is much worse than the Wrong suffer'd.

We now come a little to the Inequality of their Proceedings, and how they are sometimes pleased to vary in their Judgment, according to the Person before them: And to illustrate this, the Reader is desir'd to confront the following Cases one with another.

MR. *Clark* Distiller in *Holbourn* frequently distilling decayed Wines was asked by the Officers of Ex-
cise if he had any Wines for Stilling, he denied his having any, yet upon Search the Officers found 10 Pipes which were afterwards really distilled, whereupon an Information was laid against him, for concealing the said 10 Pipes in Order (as is supposed) to defraud the Crown of the Duty; yet upon hearing before the Com——oners he was acquitted.

THE two following Cases seem to me to be something opposite to this; whether the Difference respected the Person accused, or accusing, I shall not determine.

About *May* 1705. *Mr. Matthew Probie* bought 3 Casks of Wine, not for the Still, but to sell again as Wine, as he used frequently to do; he brought them home publickly, not lockt them in a private Place to be found upon Search, as in the Case above, but laid them in his Yard openly, having several Customers about them; he prov'd they were drinkable Wines, that he was bid 11 *l.* per Cask for them, that they never were distilled (as *Mr. Clark's* really were) but sold for Drinking.

The Officers however passing over all these Circumstances; finding them in the Yard pretend a Discovery, and lay an Information for three conceal'd Casks; the Case was heard, all the Particulars authentically prov'd, yet they gave Judgment against *Mr. Probie* for 60 *l.*

On Going to Council in this Case, the Council advised him not to appeal, for they would confirm it; but to petition, which he did, and the merciful Gentlemen remitted the Fine, all but 10 *l.* — being unwilling to pay this, he petitioned again, but was told he had better lay down the 10 *l.* and he should then see what they would do for him; he laid down the Money, but has heard no more of them.

It is very mysterious to me, how these Gentlemen act in such Cases, for if it was a real Fraud, how could they remit.

remitt the Fine which is percribed by the Act? And if it w
no Fraud, why did they give Judgment? So that either W
taking the 10 l. must be wrong, the like before in *M.
Paul's Case.*

But to confront *Mr. Clark's Case* with another as hard, take
this of *Mr. Partington* Distiller near *Clare Market*: He bought
2 Hogsheds of decayed Wines in Order to distill them as usual,
he never conceal'd them, nor design'd it, but brought them o-
penly to his Door about 10 a Clock in the Morning, and they
lay there in the Street above an Hour before he took them in.

Yet after this, because the Officer pretended he was not
told of them, which the Distiller is not requir'd to do, he
lays an Information against him for two private Casks. In
short, the Com—oners gave Judgment against him for
40 l. the Com—oners of Appeal confirm'd and the Distil-
ler paid it, with above 10 l. the charge of appealing, and
afterwards distilled the Wines, and paid the Duty for them
100. This was the Difference between *Mr. Probie*, *Mr.
Partington*, and *Mr. Clark*.

A Like Difference upon the Article of admitting or de-
nying Entrance to the Officer will appear in the fol-
lowing Cases.

Samuel Rusb Distiller was informed against for denying
the Officers of Excise Entrance in the Night Time. Upon
the Trial he made it appear by his Servants the Family
was all in Bed, and did not hear them knock, and demand
Entrance, yet was fined 15 l.

Thomas and Jeremy Imthings Partners and Distillers were
inform'd against for denying the Officer of Excise Entrance
in the Night Time. The Case was thus, the Officer knock'd,
the Maid arose and looking out of Window, told him she
could not let him in, for her Masters were in Bed, and she
would not disturb them, yet they upon a Hearing before the
Com—oners were acquitted.

For working different Materials we have a like Instance,
as follows.

Christopher Welling Distiller, had an Information laid against him for having in his House Wash from Melasses and Malted Corn contrary to Law, for which he was cast by the Com—oners of Excise in the Penalty of 155 *l*.

Thomas and *Jeremy Immings* Distillers were inform'd against for having in their House Wash from Melasses and Malted Corn contrary to Law; upon their Trial, before the Com—oners of Excise, were acquitted, and at another Time for the same Thing were condemn'd in the Penalty of 125 *l*.

ONE Mr. *Whiternoon* Vinegar-Maker, having a Stow always used in his Trade, through which his Vinegar passes before it is finished, and fit for Sale (which Place is always open for the Excise men to go into to gauge, and to make their Charges upon him) had an Information laid against him, for having 30 Barrels of private, or concealed Vinegar, in the aforelaid publick Stow or Ware House, for which he was condemn'd to pay 60 *l*. notwithstanding he has had many Thousands of Barrels go through the same Place for several Years, and at the same Time had several Hundred Barrels there when the 30 Barrels before mentioned were deemed private; which 30 Barrels he prov'd by his Servants, were made in his publick Vinegar Yard in the Day Time, and in Sight of the Officers: However he was obliged to pay the Money, tho' to this Day it remains a Mystery no Man can discover, why those 30 Barrels should be pitch'd upon, among near 1000 Barrels which lay in the same Place, in the same Circumstances, and at the same Time.

All the Reason that could to this Day be thought of for this Case, was that the Officer who gets half the Fine, had just then an Occasion for 30 *l*. and was not willing to rob the Gentleman of more than he wanted.

MR. *Fuller* was in hopes his Daughters Hardship had been at an End, but even since the Proceedings recited in

in this Tract, in which the Com—oners have had leisure enough to see their own Mistakes, they are yet pursuing more dark Ways with him.

Mr. *Fuller* having cast them in the Case of their charging him with his Daughters Debt, *viz.* In the consequence of that Tryal; they now strike out his Name, and charge the Daughters with the Money, which being not paid in Time, they bring Information against them for double Duty—— How unhappy it is for these Gentlemen, that they should forget that Mr. *Fuller's* Daughters had tendred the Duty in Time as the Law directs, and so could not be charg'd with double Duty? However, resolv'd, tho' never so wrong in their Methods, they would go on, so they summon them to appear the 16th of *July* last, and if they did not appear, they should proceed. — On the Day appointed they appear'd by their Attorney, with Council and Witnesses: The Com—oners finding them ready to defend themselves, after long waiting would not hear them, but put off the Cause *sine Die*—— The Defendants, to prevent all Disputes, tender'd their Monies again, but these unaccountable Gentlemen would neither take the Duty, nor try the Cause, nor let them know what Way they would go.

Some vain and indeed very weak Methods were used to bring the Defendants to Terms of submission, but to no purpose; and finding they had lost their usual Authority, and the Awe of their Proceeding was decayed, they stoop'd at last to own their Folly, dropt their Information, and took the single Duty; which Mr. *Fuller's* Daughters for Peace sake paid them; tho' had they Sued for Damage, in being put to the Charges to defend a Cause the other dare not try, no Doubt they might have been relieved.

Mr. *Fuller* forbears to remind them of his Case of overcharge; which tho' amounting to 70 *l.* has lain above 12 Years, not undetermin'd only, but unheard.

If Mr. *Fuller* does not publish here his own particular Case, in which they have for 12 Years and upward denied him not Justice only, but a hearing for above 70 *l.* in over

over Charges, and rather jested at his Demand than inclin'd to redress it. 'Tis first to let them see that he is not forward to complain, nor has not withheld for want of Subject, or just Provocation; and also in Hopes that being convinc'd of the ill Consequence of such Treatment they will at last resolve to make the Subject easy, hear their just Complaints, and do him Justice among the rest, that the Cause of these Clamours being remov'd, the Effects may cease of Course.

And he is rather inclin'd to hope this, since it has been experienc'd in some Cases already: And I cannot but do them this Justice, that the Com—oners seeing this Storm gathering, have even since the printing the late Book, and before the Publication of, this thought fit to reflect upon some of their Actions, and do Justice, as particularly in the Case of Mr. *Martin*, and his Fine of 20 l. Pag. 56. the Officers demanded the Money, Mr. *Martin* told them he would never pay it, they might pull down his House for it if they pleased; for it was a meer Violence from the beginning, and it should be Violence to the End, and he would wait the Consequence: The Officer desir'd he would attend the Com—oners, which he did, and they very mercifully remitted his Fine down to 40 s. But Mr. *Martin* resolv'd not to bear the Wrong, told them plainly he would not pay them a Farthing, for it was an unjust Sentence, and if they would have it, they should take it by Force, or to that Effect. Upon which they still more generous than ever, told him then they would forgive it him all; in which he owns they are just, but cannot for his Life acknowledge any Generosity, tho' if he could find any, he would not be so ungrateful as not to acknowledge it.

THere is another Case which cannot be omitted by Reason of the Variety of Injustice and Illegality which appears in it, and that is of Mr. — *Breedon* a Brewer about the Year 1695.

After a Brewing of Beer was over, and the Excise-man had gauged the Drink, and made his Charge, and *one would think*

think the Brewer might do what he would with it then. Mr. Breedon ordered 4 Barrells of Beer for a particular Customer to be laid by in a Room in the Brew house, which tho' it was not the usual Store house, was yet a publick Room common and known to the Gaugers, and into which they went every Day, or as often as they pleased, being usually a Place where they laid Malt or Hops.

The Surveyor coming to the House, and finding the Door lock'd as it usually was, breaks it open, and finding the four Barrells of Beer there, lays an Information against Mr. Breedon for a private Store house.

On the Hearing the Brewer prov'd by his Witnesses, 1st. That the Room where the Drink was found, was publick, and known to the Officers. 2. That the Drink was gauged before it was laid there. And 3^{dly} that the Duty was paid for it before the Information was laid.

Had I Room here to insert the Opinion and Reason of Mr. Dod and Mr. Asgill Counsil for Mr. Breedon to prove this could be no private Store house in the Sence of the Law. It would be very amazing to find the Com—oners should not listen to Arguments which they nor all the Lawyers in England can never answer. I cannot however omit these Heads which I have under those Gentlemens Hands as follow.

That three Things are requir'd to make a Room be counted a private Store house within the Act of Parliament.

1. That the Place it self be private, and the Entry into it conceal'd, or not obvious to common View——locking the Door can be no Concealment, because if the Door be in View the Officer has Power, and 'tis his Duty to open it; and a Lock or a Latch are equal in the Law, and equal Trespasses in the opening them.

2. The Place must be intended for concealing Drink in order to defraud the Queen of the Duty, and this Intention must be declar'd by some open Act. Now laying Drink after it is Gauged and the Duty paid, can be no Act of Fraud, for then every Vic-tuallers Cellar may be deem'd a private Store house—but the Beer laid there must have been ungauged and conceal'd, and then the Penalty lay for an Encrease of the Guiles *l. per Barrell.*

L

3. The

3. The place must be unknown to the Gauger, for if a place be first Private, and afterwards known to them, it can never become Private again; for they knowing the place, it is their Duty to discover the Use of it. — And if this be in the Breast of the Officer, then the Act is of no Use, in which the Adjective's *private and conceal'd*, are the Qualities which make a Concealment: To accept of the Officers Construction would defeat all Laws; as for Example, where an Act says, a felonious Taking shall be Death, and a Malicious Killing shall be Murder, take but away these Adjectives, *Felonious and Malicious*, then all Taking, tho' of a Man's Own wou'd be Death, and all Killing would be Murder.

The rest of the Arguments are as Cogent and as Diverging as this — and one would really wonder the Com—oners could resist them — but their regard to Law and Council has not been too frequent in these Cases; neither could all this prevail upon them, but they gave Judgment against Mr. *Breedon* for 50*l.* and the Com—oners of Appeal, like good, quiet, passive Gentlemen, according to Custom, confirm'd it,

THE Case of Mr. *Buckley* and Justice *Perry*, tho' some time since is also worth a place in this Account for several Reasons; The Com—oners had then no Power to continue their Officers in the Brewers Houses when their Work was done — they have obtain'd that Clause since, and made excellent use of it, as in Mr. *Martin's* Case, p. 56. and others omitted here.

But before they had this Power, the Officers came to Mr. *Buckley* and *Perry's* Brew-House, and told them they would stay there at their Pleasure; and frequently after all their Business was over, and the Gauges of Beer off, tho' there was nothing doing in the Office, yet there would be an Excise-man loitering in the Brew-house.

Mr. *Buckley* told them several Times he expected when their Duty as Excise-men was over, they should go about their Business, but he still found them there, and at last they insolently told him they would not go away, but would stay in his House as long as they pleased, or Words to that Effect, and perhaps hardly so civil.

Mr. *Buckley* and *Perry* justly mov'd with this Treatment, and fully, knowing their Power as well as themselves, and that the Law did not allow them to remain there, ordered their Servants to give them all reasonable Liberty to do their Duty, but when that was over, if they would not go away, to turn them out of the House.

Accordingly the next Brewing — when the Worts were come down, and the Drink Gauged, and all over, one of Mr. *Buckley's* Servants ask'd them if they had taken their Gauge, they own'd they had, then he told them they had no Business there; and civilly desired them

refused to stir, and declar'd they would
The Servants took them by the Shoulders,
the Brew-house, of 101 additional 1000
men Excise-men Complain to the Com—
to lay two Indictments against Mr. Buckley
a Riot and the other for an Assault.

They and Partner applyed themselves to the Com—oners
d them the Case, that they had no Law to justify setting Men
their Houses, told them the Insolence of their Officers, and de-
aring themselves willing to submit to all their Legal Power, only de-
d no to be imposted upon — but the Com—oners would
ve n Ear to them.

The they proposed that since they had indicted them, they would
the which Indictment they would, and proceed to Trial, and if
ey were cast in the one, they would yield in the other, but to prose-
e two together was only to put them to Charge, and look'd as if
were malicious, which they hop'd the Com—oners would not
age.

ore, they would abate none of the Prosecutions, but crat-
both on to Extremity. Mr. Perry and Mr. Buckley defended themselves
came to Tryal, where the Officers were cast, and the Com—
s receiv'd as much Mortification and Disgrace, as they could desire
indeed as any Body could wish.

nd as they have always been humble enough when they are con-
d, so it was here, for when they were cast in one Indistments
truly, they would submit to Drop the other for which no Man
occasion to give them any Thanks.

Mr. Buckley had the Victory indeed, but as for Damages
bout 60 l. in the Pursuit of this Cause to defend himself
st the L. salts of the Officers, there they remain his Debtor. ~~and~~
could give another very diverting Story here of Mr. Calvert's be-
informed against and find 200 l. for driving a Wedge, one of the
ers having been sunk on one side a little, so that the Worts would
n off clear, and the Back-maker being at work there, one of the
to the Com— to get it to rights, which he did by driving a
wedge under one of to raise it to the usual Level, and the
se-man present in the w-house all the while, yet for this he
ne form against, and 200 l. — which was afterwards remit-
er 30. and that waid.

me none with the many Instances of these Gentlemens Beha-
son. Nor that I cou not fill a larger Book of them, but ^{is enough}
I fear the rest, as I hinted before, in hopes the Gentlemen will
Occasion for a second Volume.

I have been enquired of here, whether proper Instruments for such Work as this for Tools? for every Man is not qualified for

Had the Enquirer know'd the Characters of *Tecron* the principal Agents in these Affairs, he would ask such a Question, and tho' their Characters are too foul and their Persons below any Mans Notice, yet I cannot close this Account without an Observation Upon the two first of them; *Downer* and *Palchin*, the other we reserve in *Petto*.

P— for cheating the King and confederating with Mr. *Woodcock* to charge 1 d. per Gallon where he should have charged 12. d. was prosecuted and convicted on the Statute of 7th William I. b. which he was sentenc'd to be incapable of serving in the Excise yet in two Months was taken in again, and made a Manager in Conjunction with *Downer* who had also been turn'd out for ill Practice.

This is noted to let the Com—oners know the Distillers ignorant that if they should refuse *Palchin* Entrance, into any Houses, they durst stand a Tryal with them, he being by qualified to act and can be no Legal Officer, nor can their Oath non legitimate him against the Sentence of the Law; which they will do well to consider when he offers any Thing illegal to them again.

D—ner's Character is below our Observation: Nor is it to our Purpose to tell the Com—oners of his Drinking King James H. altho' of his putting his Officers upon encouraging the Distillers to cheat, and then to let him come and discover it, or of his being d—m'd for gaming and Drinking with the Gaugers, and keeping them from their Business— or of his hard mouth'd Swearing to obtain Penalties; but this is worth Note, that since the last Regulation of the Distillers this Person has used his Interest with the Officers to charge less on the running of the Wash than the Law directs, if possible to conceal the Encrease of the Duty which that Clause has procur'd, that the Benefit may not appear so large to the Crown as the Distillers have affirm'd.

This joyn'd to the Observation Mr. *Fuller* has made, that they began their Prosecution of him immediately after the 1st June when he was retain'd in Parliament against his Prop he thinks justifies in giving the Reason of their Wrath against him and Mr. *Mack* for their Endeavour to regulate the Excise upon distilling, both to the Ease of the Subject and the Advantage of the Crown, and Mr. *Fuller* lets them know he is not unacquainted with some new Measures taken both in the Country and elsewhere, in order to conceal the visible Effects of the late Clause to her Majesty's advantage which also he may detect and expose as they desire.